



Digitized by the Internet Archive
in 2012 with funding from
Boston Library Consortium Member Libraries

**ACTS
AND
RESOLVES**

PASSED BY THE
General Court of Massachusetts
IN THE YEAR

1998

VOLUME I

PUBLISHED BY
William Francis Galvin
SECRETARY OF THE COMMONWEALTH



The General Court which was chosen November 5, 1996, assembled on Wednesday, the seventh day of January, 1998 for the second session.

His excellency, Argeo Paul Cellucci served as Acting Governor for the political year of 1998.

1998 ACTS AND RESOLVES

TABLE OF CONTENTS

ACTS	1
RESOLVES	1602
SUMMARY OF ACTS AND RESOLVES APPROVED, APPROVAL WITH- HELD, ACTS VETOED BY THE GOVERNOR, PASSED OVER HIS VETO, ACTS DECLARED EMERGENCY LAWS BY THE GOVERNOR UNDER THE AUTHORITY OF THE CONSTITUTION, LAWS APPROVED BY THE PEOPLE AT THE STATE ELECTION AND A CONSTITUTIONAL AMEND- MENT APPROVED BY THE PEOPLE AT THE STATE ELECTION.	1603
CERTIFICATION OF ACTS AND RESOLVES	1605
TABLE OF CHANGES	1607
INDEX	1697

Published by William Francis Galvin
Secretary of the Commonwealth

Chapter 1. AN ACT RELATIVE TO CONTEST PROMOTIONS BY GASOLINE STATIONS.

Be it enacted, etc., as follows:

Section 6C of chapter 271 of the General Laws is hereby repealed.

This chapter was passed by the General Court during the 1997 session and signed by the Governor in the 1998 session.

Approved January 7, 1998.

Chapter 2. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section 11 of chapter 152 of 1997, shall be issued for a term not to exceed 25 years; provided, however, that all such bonds shall be payable by June 30, 2032, as recommended by the governor in a message to the general court dated November 24, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 2. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section 12 of chapter 152 of 1997, shall be issued and may be renewed one or more times for a term not to exceed 7 years; provided, however, that all such notes shall be payable by June 30, 2005, as recommended by the governor in a message to the general court dated November 24, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 3. Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section 14 of chapter 152 of 1997, shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2022, as recommended by the governor in a message to the general court dated November 24, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 4. Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under section 16 of chapter 152 of 1997, shall be issued and may be renewed one or more times for a term not to exceed one year; provided, however, that all such notes shall be payable by June 30, 2001, as recommended by the gov-

Chap. 2

error in a message to the general court dated November 24, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution.

SECTION 5. Section 12 of chapter 152 of the acts of 1997 is hereby amended by inserting after the second sentence the following sentence:- All interest on account of the principal of such notes shall be payable from the Convention Center Fund established pursuant to section 10.

This chapter was passed by the General Court during the 1997 session and signed by the Governor in the 1998 session.

Approved January 7, 1998.

Chapter 3. AN ACT DESIGNATING CLARA BARTON DAYS.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15XXX, inserted by chapter 79 of the acts of 1997, the following section:-

Section 15YYY. The governor shall annually issue a proclamation setting apart the week commencing on December 25 as Clara Barton Week, in recognition of her countless humanitarian efforts in the cause of peace and in aiding the victims of wartime and natural disasters, and in further recognition of her founding of the American Red Cross, and recommending that said week be observed in an appropriate manner by the people.

This chapter was passed by the General Court during the 1997 session and signed by the Governor in the 1998 session.

Approved January 7, 1998.

Chapter 4. AN ACT RELATIVE TO THE COMPOSITION OF THE SCHOOL COMMITTEE OF THE CITY OF CHICOPEE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 239 of the acts of 1897 is hereby amended by striking out section 32 and inserting in place thereof the following section:-

Section 32. The management and control of the public schools of said city shall be vested in a school committee, consisting of the mayor, two members at large and one from each ward of the city. The mayor shall serve as chairperson of the school committee. The at large members shall serve for four-year terms with one being elected every two years, and the members from the wards shall serve two-year terms.

SECTION 2. Section 33 of said chapter 239 is hereby amended by striking out the second sentence, as appearing in chapter 484 of the acts of 1996.

Chap. 4

SECTION 3. This act shall take effect upon its passage.

This chapter was passed by the General Court during the 1997 session and signed by the Governor in the 1998 session.

Approved January 7, 1998.

Chapter 5. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF SWANSEA.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of capital planning and operations is hereby authorized, subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to sell and convey by deed a certain parcel of land located in the town of Swansea to Richard and Lori Demoranville to be used for residential purposes, including, but not limited to, septic system improvements. Said parcel is described in a deed from Algernon H. and Jessie S. Barney to the commonwealth dated September 23, 1911 and recorded in the registry of deeds in the Fall River district of Bristol county at Book 180, Page 448.

SECTION 2. The recipients shall pay full and fair market value for the property as determined by the commissioner based on an independent appraisal taking into account its assemblage value to the recipients. The recipients shall assume all costs of appraisals, surveys, deed preparation and other expenses related to the conveyance of this property and shall be responsible for all costs and liabilities of its condition, ownership and operation. If the parcel ceases to be used for the purposes authorized herein or is used for any other purpose, then upon notice by the commissioner, all interest in said parcel shall revert to the commonwealth upon such terms and conditions as the commissioner may direct.

Approved January 14, 1998.

Chapter 6. AN ACT ESTABLISHING A CAPITAL INVESTMENT FUND IN THE TOWN OF STERLING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Sterling is hereby authorized to establish and maintain a special fund to be known as the Capital Investment Fund.

Chap. 6

Said town may appropriate to said fund by a majority vote of an annual or special town meeting in any year an amount not to exceed 10 per cent of the amount raised on the preceding year by taxation of real estate and tangible personal property. The aggregate amount of the Capital Investment Fund at any one time shall not exceed 10 per cent of the equalized valuation of the town of Sterling as defined in section 1 of chapter 44 of the General Laws. Any interest shall be added to and become part of the fund.

The treasurer of said town shall be the custodian of the fund and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, co-operative banks or trust companies organized under the laws of the commonwealth or invest the same in such securities as are legal for the investment of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth. These funds shall be protected by an insured investment vehicle.

The Capital Investment Fund may be appropriated at any annual town meeting or a special meeting by a two-thirds vote. Said fund may be appropriated for any purpose for which said town would be authorized to borrow money under section 7 or 8 of chapter 44 of the General Laws, and to pay the debt service on any project, including but not limited to, the payment of capital improvement assessments by regional school districts. Any proposal for appropriation from said fund shall be submitted to the capital budget committee established under section 2 for their review at least one month prior to the town meeting at which such appropriation is to be considered. The committee may make its recommendation at said town meeting.

SECTION 2. There shall be a capital budget committee of the town of Sterling consisting of seven voters of said town four of whom shall be members of the finance committee of said town. Said committee shall choose its own officers, set its own rules and shall serve without pay except the clerk who may receive reasonable compensation for his services. The clerk of said committee may or may not be a member of the committee.

Said committee shall be appointed jointly by the moderator, board of selectmen and finance committee, each entity having one vote. When the committee is first established, the terms of the members shall be for one, two and three years and so arranged that the terms of approximately one-third of the members shall expire each year and their successors shall be appointed for terms of three years. Said committee shall meet at the call of the moderator of said town or its chairman and shall choose its chairman and clerk. Jointly the moderator, board of selectmen and finance committee each having only one vote shall forthwith fill any vacancy and said appointee shall serve for the unexpired term of office.

Said committee shall consider matters relating to appropriations from the Capital Investment Fund and may but shall not be required to make recommendation to the town of Sterling or to any board, committee or official thereof, relative to such matters and establish policies relative to the funding of capital projects of the town and set priorities and schedules for such capital projects.

Approved January 14, 1998.

Chapter 7. AN ACT PROVIDING FOR A CAPITAL CONSTRUCTION AND EQUIPMENT ACCOUNT IN THE TOWN OF NORTHBRIDGE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Northbridge is hereby authorized to establish a separate fund to be known as the Capital Construction and Equipment Account which shall be kept separate and apart of all other monies of said town by the town treasurer and in which shall be deposited all payments received from the sale of gravel by said town. The treasurer may invest such funds in the manner authorized by sections 54 and 55 of said chapter 44. The principal and interest thereon shall be reserved for appropriation for the construction of a department of public works facility.

Approved January 14, 1998.

Chapter 8. AN ACT ESTABLISHING A TIP FEE STABILIZATION FUND IN THE TOWN OF ARLINGTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established in the town of Arlington a Tip Fee Stabilization Fund. All proceeds from the sale of recycled materials, the sale of excess tonnage capacity of the town at the facility of Massachusetts REFUSETECH, Inc. in North Andover, including the balance of such funds previously received, such other receipts arising from the sale or disposal of solid waste and any funds appropriated by the town meeting for the purposes of this act shall be deposited to said fund. The town treasurer shall be the custodian of said fund and may invest the proceeds as provided for by section 54 of chapter 44 of the General Laws. Any interest or dividends shall be added to and become part of said fund. The treasurer shall report monthly on said fund to the town manager and to each subsequent annual town meeting. Any annual or special town meeting of said town may appropriate from said fund to pay any of the town's financial obligations associated with the existing solid waste agreement with MRI, Inc., or a successor agreement, in association with the Northeast Solid Waste Committee.

To provide for extraordinary or unforeseen expenditures for the purposes of this act, the town manager, with the approval of the board of selectmen and the finance committee, may expend up to 10 per cent of said fund without further appropriation. Beginning in fiscal year commencing July 1, 2005, the town meeting, by a two-thirds vote, may appropriate from said fund for any lawful purpose.

SECTION 2. This act shall take effect upon its passage.

Approved January 14, 1998.

Chapter 9. AN ACT RELATIVE TO REGULATIONS OF CERTAIN HEADS OF POLICE DEPARTMENTS.

Be it enacted, etc., as follows:

Subsection (d) of section 7 of chapter 150E of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "forty-one", in line 49, the following words:- or of a police commissioner or other head of a police or public safety department of a municipality.

This bill was returned by the Lieutenant-Governor, Acting Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on January 8, 1998, and by the House of Representative on January 14, 1998, the objections of the Lieutenant-Governor, Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 10. AN ACT RELATIVE TO THE CONSERVATION COMMISSION OF THE TOWN OF BURLINGTON.

Be it enacted, etc., as follows:

The conservation commission of the town of Burlington may provide, by rules, for the imposition of reasonable fees for the employment of outside consultants and shall account for and expend such funds in accordance with the provisions of section 53G of chapter 44 of the General Laws.

Approved January 22, 1998.

Chapter 11. AN ACT RELATIVE TO PROPERTY TAXES IN THE TOWN OF BELLINGHAM.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the town of Bellingham is hereby authorized to extend the due date of abatement applications until March 15, 1998. Payments received by said town for the third quarter property tax payment that are equal to the second quarter payment and timely made on or before February 2, 1998 may be accepted by the town and no interest or penalty shall accrue to a taxpayer for the difference in the amount of the payment and the amount of the property tax due. All fourth quarter property tax payments shall reflect adjustments in the differences between the third quarter payments made and the tax owed and shall be due on or before June 1, 1998.

SECTION 2. This act shall take effect upon its passage.

Approved January 23, 1998.

Chapter 12. AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO ESTABLISH A POST EMPLOYMENT HEALTH INSURANCE TRUST FUND.

Be it enacted, etc., as follows:

SECTION 1. The town meeting of the town of Arlington may appropriate funds in order to offset the anticipated cost of premium payments for or direct payments to retired employees, and the eligible surviving spouse or dependents of deceased employees. Such amount shall be credited to a special fund to be known as the Retiree Insurance Liability Fund. Any interest or other income shall be added to and become part of such fund. The treasurer of the town shall be the custodian of such fund, and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks, or trust companies organized under the laws of the commonwealth or in federal savings and local associations situated in the commonwealth or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth. The treasurer may employ any qualified bank, trust company, corporation, firm or person to advise him on the investment of the fund and may pay for such advice. Amounts may be appropriated to such fund for such purposes at the annual town meeting by majority vote. Amounts may be expended from such funds only in accordance with an actuarial schedule of payments developed by the town manager and approved by the actuary in the division of insurance and designed to reduce to zero any unfunded liability attributable to the payment of such premiums or direct payments. Such schedule shall be designed to maintain such premium costs or direct payments as a fixed ratio of the current and predicated future payroll of the governmental unit or such other acceptable actuarial method that is approved by the actuary in the division of insurance. Funds may be utilized for the purposes of this fund by appropriation as voted by any annual town meeting of the town.

SECTION 2. This act shall take effect upon its passage.

Approved January 23, 1998.

Chapter 13. AN ACT RELATIVE TO CERTAIN LANDS IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. The conservation commission of the town of Mashpee is hereby authorized to transfer to the board of selectmen of said town the care, custody, management and control of a certain parcel of land, designated as a town forest. Said board of selectmen is hereby authorized to change the use of said land from forest land to town cemetery use. Said parcel is shown on the Mashpee Assessors' records as Map 89, Block 1.

SECTION 2. Chapter 209 of the acts of 1997 is hereby amended by striking out section 1 and inserting in place thereof the following section:-

Chap. 13

Section 1. Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the county commissioners of Norfolk county are hereby authorized to convey, without consideration, two parcels of conservation land to the town of Braintree. Said parcels are shown as Parcel 1 and Parcel 2 on a certain plan entitled "Plan of Land in Braintree, Mass., August 26, 1976, Alvah L. Downs, County Engineer", which plan is recorded with the Norfolk registry of deeds as Plan 1187 of 1978 (the "1978 Plan").

SECTION 3. Section 2 of said chapter 209 is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:-

Both parcels are shown on a plan entitled "Plan of Land in Braintree, Mass., Owner: County of Norfolk, dated October 2, 1997", prepared by County of Norfolk Engineering Dept. and recorded in the Norfolk county registry of deeds, (the Plan).

The first parcel is labeled on said plan as County of Norfolk, Land Court Cert. No. 21516, Book 108, Page 116, and the second parcel is shown on said plan as Parcel B.

SECTION 4. Section 3 of said chapter 209 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Said parcel is shown as Lot C on the plan described in section 2, (the Plan).

Approved January 23, 1998.

Chapter 14. AN ACT RELATIVE TO CHILDREN IN FOSTER CARE.

Be it enacted, etc., as follows:

SECTION 1. Clause (4) of the second paragraph of section 26 of chapter 119 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- The entry of such order shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.

SECTION 2. The first paragraph of paragraph (b) of section 3 of chapter 210 of the General Laws, as so appearing, is hereby amended by inserting after the fourth sentence the following sentence:- The entry of such decree shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.

SECTION 3. The third paragraph of said paragraph (b) of said section 3 of said chapter 210, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The entry of such decree shall have the effect of terminating the rights of a person named therein to receive notice of or to consent to any legal proceeding affecting the custody, guardianship, adoption or other disposition of the child named therein.

Approved January 23, 1998.

**Chapter 15. AN ACT VALIDATING THE RESULTS OF A CERTAIN ELECTION
HELD IN THE TOWN OF PLYMOUTH.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or charter provision to the contrary, the results of the 1997 annual town election held in the town of Plymouth, including the election of Viriato DeMacedo as a town meeting member for Precinct 8, are hereby ratified, validated and confirmed and said Viriato DeMacedo is hereby authorized to serve and perform the duties of the office of town meeting member until the expiration of the term for which he was elected.

SECTION 2. This act shall take effect upon its passage.

Approved January 23, 1998.

**Chapter 16. AN ACT EXEMPTING THE POSITION OF SCHOOL CUSTODIAN
IN THE SCHOOL DEPARTMENT IN THE CITY OF TAUNTON
FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

SECTION 1. The position of school custodian in the school department in the city of Taunton shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. The school department of the city of Taunton shall report to the joint committee on public service of the general court on the hiring procedures, including required level of experience, for the position of school custodian in said city within one year after the effective date of this act.

SECTION 3. The provisions of this act shall take effect upon its passage and shall expire three years after such effective date.

Approved January 23, 1998.

**Chapter 17. AN ACT AUTHORIZING THE TOWN OF MAYNARD TO ISSUE AN
ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC
BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Maynard is hereby authorized to issue, in accordance with the provisions of section 12 of said chapter 138, one additional license for the sale of all alcoholic beverages to be drunk on the premises. Such license shall be subject to all the provisions of said chapter 138 except said section 17.

Approved February 5, 1998.

Chapter 18. AN ACT AUTHORIZING THE TOWN OF ABINGTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Abington is hereby authorized to issue to ABC Corporation, d/b/a Corner Pocket Sports Bar, a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Said license shall be subject to all of the provisions of said chapter 138 except said section 17.

SECTION 2. All votes taken by the board of selectmen of the town of Abington relative to the awarding of the license described in section 1 are hereby ratified, validated and confirmed in all respects as though this act had been in full force and effect at the time of taking any such votes.

SECTION 3. This act shall take effect upon its passage.

Approved February 5, 1998.

Chapter 19. AN ACT RELATIVE TO THE MEMBERSHIP OF FITNESS AND WELLNESS FACILITIES IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make provisions forthwith for the membership of fitness and wellness facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 92A of chapter 272 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "apply", in line 37, the following words:- to a place of exercise for the exclusive use of persons of the same sex which is a bona fide fitness facility established for the sole purpose of promoting and maintaining physical and mental health through physical exercise and instruction, if such facility does not receive funds from a government source, nor.

SECTION 2. The provisions of section 1 shall apply to all claims arising not earlier than three years before the effective date of this act which have not yet been filed, and to all other claims pending before the commission against discrimination or a court on the effective date of this act, including claims upon which final judgment or judgment after rescript has not entered or as to which a period to file an appeal, certiorari petition, petition for rehearing or similar motion has not expired on said effective date.

Approved February 6, 1998.

Chapter 20. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF WARREN.

Be it enacted, etc., as follows:

SECTION 1. Any holder of an elective office in the town of Warren may be recalled therefrom by the qualified voters of the town as herein provided.

SECTION 2. Any qualified voter of the town may make and file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. The town clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of petition blanks for such recall. Said blanks shall be issued by the town clerk with his signature and official seal attached thereto and shall be dated and addressed to the board of selectmen. Said blanks shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the office from which recall is sought, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within 14 days after the filing of the affidavit. Said petition before being returned and filed shall be signed by qualified voters of said town, equal in number to at least 20 per cent of the qualified voters of the town as of the date such affidavit was filed with the town clerk. To every signature shall be added the place of residence of the signer, giving the street and number. Said recall petition shall be submitted, at or before three o'clock in the afternoon of the Monday preceding the day on which it must be filed, to the registrars of voters in said town, and the registrars shall forthwith certify thereon the number of signatures which are the names of voters in said town.

SECTION 3. If the petition shall be found and certified by the town clerk to be sufficient he shall submit the same with his certificate to the board of selectmen without delay, and the board of selectmen shall forthwith give written notice to said officer of the receipt of said certificate and shall, if the officer sought to be recalled does not resign within five days thereafter, thereupon order a recall election to be held on a day fixed by them not less than 65, nor more than 95 days after the date of the town clerk's certificate that a sufficient petition is filed; provided, however, that if any other town election is to occur within 120 days after the date of said certificate, the selectmen, in their discretion, may postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall proceed, nevertheless, as provided in this section.

SECTION 4. Any officer who has been recalled by a vote at the recall election may be a candidate to succeed himself in an election to be held to fill such vacancy. The nomination of all candidates, the publication of the warrant for the recall election and any election to fill a vacancy caused by a recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If said incumbent is not recalled, he shall continue in office for the re-

Chap. 20

mainder of his unexpired term, subject to recall, except as provided in section 7. If not re-elected in the recall election, he shall be deemed recalled upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed recalled and the office vacant.

SECTION 6. The ballots used in a recall election in said town shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter by making a cross mark (x) may vote for either of such propositions. Under the proposition shall appear the word "Candidates" and the direction "Vote for One" and beneath this the names of candidates nominated as hereinbefore provided.

If a majority of the votes cast on the recall question is in the affirmative, then the candidate that received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes on the question is negative, the ballots for candidates to fill the vacancy need not be counted.

SECTION 7. No recall petition shall be filed against an officer of said town within six months after he takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

No recall petition shall be filed against an officer of said town if said recall election cannot be held prior to six months from the end of his term of office.

SECTION 8. No person who has been recalled from an office in said town, or who has resigned from office while recall proceedings were pending against him shall be appointed to any town office within two years after such recall or resignation.

SECTION 9. This act shall take effect upon its passage.

Approved February 6, 1998.

Chapter 21. AN ACT AUTHORIZING PAUL L. BOUDREAU AND BRIAN J. CLARK TO TAKE A CIVIL SERVICE EXAMINATION FOR THE POSITION OF FIREFIGHTER IN THE TOWN OF WILMINGTON NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary regulating the maximum age of applicants for appointment as firefighter, Paul L. Boudreau of the town of Wilmington shall be eligible to take the next open competitive examination for appointment to the position of firefighter in said town and, provided he meets all other requirements, shall be eligible for certification and appointment to the fire department of the town of Wilmington.

Chap. 21

SECTION 2. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary regulating the maximum age of applicants for appointment as firefighter, Brian J. Clark shall be eligible to take the next open competitive examination for appointment to the position of firefighter in the town of Wilmington and, provided he meets all other requirements, shall be eligible for certification and appointment to the fire department of said town of Wilmington.

SECTION 3. This act shall take effect upon its passage.

Approved February 6, 1998.

Chapter 22. AN ACT RELATIVE TO INSPECTIONS OF ON-SITE SEWAGE DISPOSAL SYSTEMS.

Be it enacted, etc., as follows:

Chapter 21A of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 13A. A system inspector of on-site sewage disposal systems, approved by the department of environmental protection, who performs an on-site inspection sewage disposal system under the provisions of the state environmental code, shall not recommend a specific disposal system installer, including himself, to perform any work related to the replacement, repair, alteration or design of said system; provided, however, that all system inspectors shall, at the time of inspection, provide to the property owner a list prepared by the local board of health of local disposal system installers who are approved to perform such work. Each board of health shall prepare and make available a list containing the name, address, and phone number for at least five such installers who request to be included on such list. Nothing contained herein shall be construed to prohibit a system inspector from distributing such list on which his own name shall appear; provided, however, that such inspector shall in no way distinguish his name from others on such list.

A violation of this act shall be punished by a fine of not more than \$1,000.

Approved February 6, 1998.

Chapter 23. AN ACT RELATIVE TO THE MEMBERSHIP OF THE MASSACHUSETTS CONVENTION CENTER AUTHORITY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a comprehensive plan for the appointment of the members of the Massachusetts Convention Center Authority, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Chap. 23

Be it enacted, etc., as follows:

Section 33 of chapter 190 of the acts of 1982 is hereby amended by striking out the second paragraph, as amended by section 23 of chapter 152 of the acts of 1997, and inserting in place thereof the following paragraph:-

The authority shall consist of 13 members, who shall be appointed as provided hereunder. Nine members shall be appointed by the governor, one of whom shall be appointed from a list of three nominees recommended by the Massachusetts Visitors Industry Council, one of whom shall be appointed from a list of three nominees recommended by the Massachusetts Lodging Association, one of whom shall be a resident of the city of Cambridge, one of whom shall be a resident of Hampden county. Two persons shall be appointed by the mayor of the city of Boston, one of whom shall be a resident of South Boston. The remaining two persons shall be the secretary of administration and finance or his designee and the collector-treasurer of the city of Boston or his designee, who both shall serve ex officio and shall have the right to exercise or vote on matters before the authority. The governor, with the advice and consent of the mayor of the city of Boston, shall designate one member of the authority as chairman during his term in office as a member of the authority. Three of the members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2000 and three members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2001 and three members of the authority first appointed by the governor shall continue in office for a term expiring December 31, 2003. The term of each such member shall be designated by the governor and shall continue until his successor is duly appointed and qualified. The members appointed by the mayor shall continue in office for a term expiring December 31, 1999, and shall continue until their successors are duly appointed and qualified. The successor of each such member shall be appointed for a term of six years and until his successor is duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term and until his successor is duly appointed and qualified. Each member of the authority shall be eligible for reappointment. Each member of the authority shall serve at the pleasure of the governor, if appointed by the governor, and each member of the authority may be removed by the governor, if appointed by the governor, or by the mayor, if appointed by the mayor. Each member of the authority before entering upon his duties shall take an oath before the governor to administer the duties of his office faithfully and impartially, and a record of such oaths shall be filed in the office of the secretary of the commonwealth. Members of the authority shall serve without compensation, but service as a member of the authority shall be credited to such member's years in service for pension and retirement purposes.

Approved February 10, 1998.

**Chapter 24. AN ACT RELATIVE TO THE UNIFORM COMMERCIAL CODE
DEALING WITH NEGOTIABLE INSTRUMENTS AND BANK
DEPOSITS AND COLLECTIONS.**

Be it enacted, etc., as follows:

SECTION 1. Section 1-201 of chapter 106 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out subsection (20) and inserting in place thereof the following subsection:-

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder", with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

SECTION 2. Said section 1-201 of said chapter 106, as so appearing, is hereby further amended by striking out subsection (24) and inserting in place thereof the following subsection:-

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

SECTION 3. Said section 1-201 of said chapter 106, as so appearing, is hereby further amended by striking out subsection (43) and inserting in place thereof the following subsection:-

(43) "Unauthorized signature", one made without actual, implied, or apparent authority and includes a forgery.

SECTION 4. Said section 1-201 of said chapter 106, as so appearing, is hereby further amended by striking out, in line 226, the figure "4-208 and 4-209" and inserting in place thereof the figure:- 4-210 and 4-211.

SECTION 5. Said chapter 106 is hereby further amended by striking out section 1-207, as so appearing, and inserting in place thereof the following section:-

Section 1-207. Performance or Acceptance under Reservation of Rights.

(1) A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

(2) Subsection (1) does not apply to an accord and satisfaction.

SECTION 6. Subsection (3) of section 2-103 of said chapter 106, as so appearing, is hereby amended by striking out, in line 40, the word "Section 3-507" and inserting in place thereof the following word:- Section 3-502.

SECTION 7. Subsection (3) of section 2-511 of said chapter 106, as so appearing, is hereby amended by striking out, in line 8, the word "(Section 3-802)" and inserting in place thereof the following word:- (Section 3-310).

SECTION 8. Said chapter 106 is hereby further amended by striking out Articles 3 and 4 and inserting in place thereof the following two Articles:-

ARTICLE 3:
NEGOTIABLE INSTRUMENTS.

PART 1.

GENERAL PROVISIONS AND DEFINITIONS.

Section 3-101. Short Title. This Article may be cited as Uniform Commercial Code - Negotiable Instruments.

Section 3-102. Subject Matter.

(a) This Article shall apply to negotiable instruments. It shall not apply to money, to payment orders governed by Article 4A, or to securities governed by Article 8.

(b) If there is conflict between this Article and Article 4 or 9, Articles 4 and 9 shall govern.

(c) Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of this Article to the extent of the inconsistency.

Section 3-103. Definitions.

(a) In this Article:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Drawee" means a person ordered in a draft to make payment.

(3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(4) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this Article or Article 4.

(8) "Party" means a party to an instrument.

(9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact (section 1-201(8)).

Chap. 24

(11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance".	Section 3-409.
"Accommodated party".	Section 3-419.
"Accommodation party".	Section 3-419.
"Alteration".	Section 3-407.
"Anomalous indorsement".	Section 3-205.
"Blank indorsement".	Section 3-205.
"Cashier's check".	Section 3-104.
"Certificate of deposit".	Section 3-104.
"Certified check".	Section 3-409.
"Check".	Section 3-104.
"Consideration".	Section 3-303.
"Draft".	Section 3-104.
"Holder in due course".	Section 3-302.
"Incomplete instrument".	Section 3-115.
"Indorsement".	Section 3-204.
"Indorser".	Section 3-204.
"Instrument".	Section 3-104.
"Issue".	Section 3-105.
"Issuer".	Section 3-105.
"Negotiable instrument".	Section 3-104.
"Negotiation".	Section 3-201.
"Note".	Section 3-104.
"Payable at a definite time".	Section 3-108.
"Payable on demand".	Section 3-108.
"Payable to bearer".	Section 3-109.
"Payable to order".	Section 3-109.
"Payment".	Section 3-602.
"Person entitled to enforce".	Section 3-301.
"Presentment".	Section 3-501.
"Reacquisition".	Section 3-207.
"Special indorsement".	Section 3-205.
"Teller's check".	Section 3-104.
"Transfer of instrument".	Section 3-203.
"Traveler's check".	Section 3-104.
"Value".	Section 3-303.
(c) The following definitions in other Articles apply to this Article:	
"Bank".	Section 4-105.

Chap. 24

"Banking day".	Section 4-104.
"Clearinghouse".	Section 4-104.
"Collecting bank".	Section 4-105.
"Depository bank".	Section 4-105.
"Documentary draft".	Section 4-104.
"Intermediary bank".	Section 4-105.
"Item".	Section 4-104.
"Payor bank".	Section 4-105.
"Suspends payments".	Section 4-104.

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 3-104. Negotiable Instrument.

(a) Except as provided in subsections (c) and (d), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except paragraph (1), and otherwise falls within the definition of "check" in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this Article.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft", a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order".

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

Chap. 24

(i) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

Section 3-105. Issue of Instrument.

(a) "Issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

Section 3-106. Unconditional Promise or Order.

(a) Except as provided in this section, for the purposes of subsection (a) of section 3-104, a promise or order is unconditional unless it states (i) an express condition to payment, (ii) that the promise or order is subject to or governed by another writing, or (iii) that rights or obligations with respect to the promise or order are stated in another writing. A reference to another writing does not of itself make the promise or order conditional.

(b) A promise or order is not made conditional (i) by a reference to another writing for a statement of rights with respect to collateral, prepayment, or acceleration, or (ii) because payment is limited to resort to a particular fund or source.

(c) If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of subsection (a) of section 3-104. If the person whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

(d) If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of subsection (a) of section 3-104; but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

Section 3-107. Instrument Payable in Foreign Money. Unless the instrument otherwise provides, an instrument that states the amount payable in foreign money may be paid in the foreign money or in an equivalent amount in dollars calculated by using the current bank-offered spot rate at the place of payment for the purchase of dollars on the day

Chap. 24

on which the instrument is paid.

Section 3-108. Payable on Demand or at Definite Time.

(a) A promise or order is "payable on demand" if it (i) states that it is payable on demand or at sight, or otherwise indicates that it is payable at the will of the holder, or (ii) does not state any time of payment.

(b) A promise or order is "payable at a definite time" if it is payable on elapse of a definite period of time after sight or acceptance or at a fixed date or dates or at a time or times readily ascertainable at the time the promise or order is issued, subject to rights of (i) prepayment, (ii) acceleration, (iii) extension at the option of the holder, or (iv) extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

(c) If an instrument, payable at a fixed date, is also payable upon demand made before the fixed date, the instrument is payable on demand until the fixed date and, if demand for payment is not made before that date, becomes payable at a definite time on the fixed date.

Section 3-109. Payable to Bearer or to Order.

(a) A promise or order is payable to bearer if it:

- (1) states that it is payable to bearer or to the order of bearer or otherwise indicates that the person in possession of the promise or order is entitled to payment;
- (2) does not state a payee; or
- (3) states that it is payable to or to the order of cash or otherwise indicates that it is not payable to an identified person.

(b) A promise or order that is not payable to bearer is payable to order if it is payable (i) to the order of an identified person or (ii) to an identified person or order. A promise or order that is payable to order is payable to the identified person.

(c) An instrument payable to bearer may become payable to an identified person if it is specially indorsed pursuant to subsection (a) of section 3-205. An instrument payable to an identified person may become payable to bearer if it is indorsed in blank pursuant to subsection (b) of section 3-205.

Section 3-110. Identification of Person to Whom Instrument is Payable.

(a) The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

(b) If the signature of the issuer of an instrument is made by automated means, such as a check-writing machine, the payee of the instrument is determined by the intent of the person who supplied the name or identification of the payee, whether or not authorized to do so.

Chap. 24

(c) A person to whom an instrument is payable may be identified in any way, including by name, identifying number, office, or account number. For the purpose of determining the holder of an instrument, the following rules apply:

(1) If an instrument is payable to an account and the account is identified only by number, the instrument is payable to the person to whom the account is payable. If an instrument is payable to an account identified by number and by the name of a person, the instrument is payable to the named person, whether or not that person is the owner of the account identified by number.

(2) If an instrument is payable to:

(i) a trust, an estate, or a person described as trustee or representative of a trust or estate, the instrument is payable to the trustee, the representative, or a successor of either, whether or not the beneficiary or estate is also named;

(ii) a person described as agent or similar representative of a named or identified person, the instrument is payable to the represented person, the representative, or a successor of the representative;

(iii) a fund or organization that is not a legal entity, the instrument is payable to a representative of the members of the fund or organization; or

(iv) an office or to a person described as holding an office, the instrument is payable to the named person, the incumbent of the office, or a successor to the incumbent.

(d) If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument. If an instrument is payable to two or more persons not alternatively, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them. If an instrument payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

Section 3-111. Place of Payment. Except as otherwise provided for items in Article 4, an instrument is payable at the place of payment stated in the instrument. If no place of payment is stated, an instrument is payable at the address of the drawee or maker stated in the instrument. If no address is stated, the place of payment is the place of business of the drawee or maker. If a drawee or maker has more than one place of business, the place of payment is any place of business of the drawee or maker chosen by the person entitled to enforce the instrument. If the drawee or maker has no place of business, the place of payment is the residence of the drawee or maker.

Section 3-112. Interest.

(a) Unless otherwise provided in the instrument, (i) an instrument is not payable with interest, and (ii) interest on an interest-bearing instrument is payable from the date of the instrument.

(b) Interest may be stated in an instrument as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates. The amount or rate of interest may

Chap. 24

be stated or described in the instrument in any manner and may require reference to information not contained in the instrument. If an instrument provides for interest, but the amount of interest payable cannot be ascertained from the description, interest is payable at the judgment rate in effect at the place of payment of the instrument and at the time interest first accrues.

Section 3-113. Date of Instrument.

(a) An instrument may be antedated or postdated. The date stated determines the time of payment if the instrument is payable at a fixed period after date. Except as provided in subsection (c) of section 4-401, an instrument payable on demand is not payable before the date of the instrument.

(b) If an instrument is undated, its date is the date of its issue or, in the case of an unissued instrument, the date it first comes into possession of a holder.

Section 3-114. Contradictory Terms of Instrument. If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both, and words prevail over numbers.

Section 3-115. Incomplete Instrument.

(a) "Incomplete instrument" means a signed writing, whether or not issued by the signer, the contents of which show at the time of signing that it is incomplete but that the signer intended it to be completed by the addition of words or numbers.

(b) Subject to subsection (c), if an incomplete instrument is an instrument under section 3-104, it may be enforced according to its terms if it is not completed, or according to its terms as augmented by completion. If an incomplete instrument is not an instrument under section 3-104, but, after completion, the requirements of section 3-104 are met, the instrument may be enforced according to its terms as augmented by completion.

(c) If words or numbers are added to an incomplete instrument without authority of the signer, there is an alteration of the incomplete instrument under section 3-407.

(d) The burden of establishing that words or numbers were added to an incomplete instrument without authority of the signer is on the person asserting the lack of authority.

Section 3-116. Joint and Several Liability; Contribution.

(a) Except as otherwise provided in the instrument, two or more persons who have the same liability on an instrument as makers, drawers, acceptors, indorsers who indorse as joint payees, or anomalous indorsers are jointly and severally liable in the capacity in which they sign.

(b) Except as provided in subsection (e) of section 3-419 or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

(c) Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection

(b) of a party having the same joint and several liability to receive contribution from the party discharged.

Chap. 24

Section 3-117. Other Agreements Affecting Instrument. Subject to applicable law regarding exclusion of proof of contemporaneous or previous agreements, the obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued or the obligation is incurred in reliance on the agreement or as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

Section 3-118. Statute of Limitations.

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of ten years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this Article and not governed by this section must be commenced within three years after the cause of action accrues.

Section 3-119. Notice of Right to Defend Action. In an action for breach of an obligation for which a third person is answerable over pursuant to this Article or Article 4,

Chap. 24

the defendant may give the third person written notice of the litigation, and the person notified may then give similar notice to any other person who is answerable over. If the notice states (i) that the person notified may come in and defend and (ii) that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two litigations, the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.

PART 2.

NEGOTIATION, TRANSFER, AND INDORSEMENT.

Section 3-201. Negotiation.

(a) "Negotiation" means a transfer of possession, whether voluntary or involuntary, of an instrument by a person other than the issuer to a person who thereby becomes its holder.

(b) Except for negotiation by a remitter, if an instrument is payable to an identified person, negotiation requires transfer of possession of the instrument and its indorsement by the holder. If an instrument is payable to bearer, it may be negotiated by transfer of possession alone.

Section 3-202. Negotiation Subject to Rescission.

(a) Negotiation is effective even if obtained (i) from an infant, a corporation exceeding its powers, or a person without capacity, (ii) by fraud, duress, or mistake, or (iii) in breach of duty or as part of an illegal transaction.

(b) To the extent permitted by other law, negotiation may be rescinded or may be subject to other remedies, but those remedies may not be asserted against a subsequent holder in due course or a person paying the instrument in good faith and without knowledge of facts that are a basis for rescission or other remedy.

Section 3-203. Transfer of Instrument; Rights Acquired by Transfer.

(a) An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument.

(b) Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.

(c) Unless otherwise agreed, if an instrument is transferred for value and the transferee does not become a holder because of lack of indorsement by the transferor, the transferee has a specifically enforceable right to the unqualified indorsement of the transferor, but negotiation of the instrument does not occur until the indorsement is made.

(d) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.

Section 3-204. Indorsement.

Chap. 24

(a) "Indorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument, (ii) restricting payment of the instrument, or (iii) incurring indorser's liability on the instrument, but regardless of the intent of the signer, a signature and its accompanying words is an indorsement unless the accompanying words, terms of the instrument, place of the signature, or other circumstances unambiguously indicate that the signature was made for a purpose other than indorsement. For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument.

(b) "Indorser" means a person who makes an indorsement.

(c) For the purpose of determining whether the transferee of an instrument is a holder, an indorsement that transfers a security interest in the instrument is effective as an unqualified indorsement of the instrument.

(d) If an instrument is payable to a holder under a name that is not the name of the holder, indorsement may be made by the holder in the name stated in the instrument or in the holder's name or both, but signature in both names may be required by a person paying or taking the instrument for value or collection.

Section 3-205. Special Indorsement; Blank Indorsement; Anomalous Indorsement.

(a) If an indorsement is made by the holder of an instrument, whether payable to an identified person or payable to bearer, and the indorsement identifies a person to whom it makes the instrument payable, it is a "special indorsement". When specially indorsed, an instrument becomes payable to the identified person and may be negotiated only by the indorsement of that person. The principles stated in section 3-110 apply to special indorsements.

(b) If an indorsement is made by the holder of an instrument and it is not a special indorsement, it is a "blank indorsement". When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.

(c) The holder may convert a blank indorsement that consists only of a signature into a special indorsement by writing, above the signature of the indorser, words identifying the person to whom the instrument is made payable.

(d) "Anomalous indorsement" means an indorsement made by a person who is not the holder of the instrument. An anomalous indorsement does not affect the manner in which the instrument may be negotiated.

Section 3-206. Restrictive Indorsement.

(a) An indorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

(b) An indorsement stating a condition to the right of the indorsee to receive payment does not affect the right of the indorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

Chap. 24

(c) If an instrument bears an indorsement (i) described in subsection (b) of section 4-201, or (ii) in blank or to a particular bank using the words "for deposit", "for collection", or other words indicating a purpose of having the instrument collected by a bank for the indorser or for a particular account, the following rules apply:

(1) A person, other than a bank, who purchases the instrument when so indorsed converts the instrument unless the amount paid for the instrument is received by the indorser or applied consistently with the indorsement.

(2) A depository bank that purchases the instrument or takes it for collection when so indorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the indorser or applied consistently with the indorsement.

(3) A payor bank that is also the depository bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the indorser or applied consistently with the indorsement.

(4) Except as otherwise provided in paragraph (3), a payor bank or intermediary bank may disregard the indorsement and is not liable if the proceeds of the instrument are not received by the indorser or applied consistently with the indorsement.

(d) Except for an indorsement covered by subsection (c), if an instrument bears an indorsement using words to the effect that payment is to be made to the indorsee as agent, trustee, or other fiduciary for the benefit of the indorser or another person, the following rules apply:

(1) Unless there is notice of breach of fiduciary duty as provided in section 3-307, a person who purchases the instrument from the indorsee or takes the instrument from the indorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the indorsee without regard to whether the indorsee violates a fiduciary duty to the indorser.

(2) A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the indorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

(e) The presence on an instrument of an indorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection (c) or has notice or knowledge of breach of fiduciary duty as stated in subsection (d).

(f) In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an indorsement to which this section applies and the payment is not permitted by this section.

Section 3-207. Reacquisition. Reacquisition of an instrument occurs if it is transferred to a former holder, by negotiation or otherwise. A former holder who reacquires the instrument may cancel indorsements made after the reacquirer first became a holder of

the instrument. If the cancellation causes the instrument to be payable to the reacquirer or to bearer, the reacquirer may negotiate the instrument. An indorser whose indorsement is canceled is discharged, and the discharge is effective against any subsequent holder.

PART 3.

ENFORCEMENT OF INSTRUMENTS.

Section 3-301. Person Entitled to Enforce Instrument. "Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to section 3-309 or subsection (d) of section 3-418. A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

Section 3-302. Holder in Due Course.

(a) Subject to subsection (c) of this section and to subsection (d) of section 3-106, "holder in due course" means the holder of an instrument if:

(1) the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

(2) the holder took the instrument (i) for value, (ii) in good faith, (iii) without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, (iv) without notice that the instrument contains an unauthorized signature or has been altered, (v) without notice of any claim to the instrument described in section 3-306, and (vi) without notice that any party has a defense or claim in recoupment described in subsection (a) of section 3-305.

(b) Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection (a), but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

(c) Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken (i) by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, (ii) by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or (iii) as the successor in interest to an estate or other organization.

(d) If, under paragraph (1) of subsection (a) of section 3-303, the promise of performance that is the consideration for an instrument has been partially performed, the holder may assert rights as a holder in due course of the instrument only to the fraction of the amount payable under the instrument equal to the value of the partial performance divided by the value of the promised performance.

(e) If (i) the person entitled to enforce an instrument has only a security interest in the instrument and (ii) the person obliged to pay the instrument has a defense, claim in recoupment, or claim to the instrument that may be asserted against the person who granted

Chap. 24

the security interest, the person entitled to enforce the instrument may assert rights as a holder in due course only to an amount payable under the instrument which, at the time of enforcement of the instrument, does not exceed the amount of the unpaid obligation secured.

(f) To be effective, notice must be received at a time and in a manner that gives a reasonable opportunity to act on it.

(g) This section is subject to any law limiting status as a holder in due course in particular classes of transactions.

Section 3-303. Value and Consideration.

(a) An instrument is issued or transferred for value if:

(1) the instrument is issued or transferred for a promise of performance, to the extent the promise has been performed;

(2) the transferee acquires a security interest or other lien in the instrument other than a lien obtained by judicial proceeding;

(3) the instrument is issued or transferred as payment of, or as security for, an antecedent claim against any person, whether or not the claim is due;

(4) the instrument is issued or transferred in exchange for a negotiable instrument; or

(5) the instrument is issued or transferred in exchange for the incurring of an irrevocable obligation to a third party by the person taking the instrument.

(b) "Consideration" means any consideration sufficient to support a simple contract. The drawer or maker of an instrument has a defense if the instrument is issued without consideration. If an instrument is issued for a promise of performance, the issuer has a defense to the extent performance of the promise is due and the promise has not been performed. If an instrument is issued for value as stated in subsection (a), the instrument is also issued for consideration.

Section 3-304. Overdue Instrument.

(a) An instrument payable on demand becomes overdue at the earliest of the following times:

(1) on the day after the day demand for payment is duly made;

(2) if the instrument is a check, 90 days after its date; or

(3) if the instrument is not a check, when the instrument has been outstanding for a period of time after its date which is unreasonably long under the circumstances of the particular case in light of the nature of the instrument and usage of the trade.

(b) With respect to an instrument payable at a definite time the following rules apply:

(1) If the principal is payable in installments and a due date has not been accelerated, the instrument becomes overdue upon default under the instrument for nonpayment of an installment, and the instrument remains overdue until the default is cured.

(2) If the principal is not payable in installments and the due date has not been accelerated, the instrument becomes overdue on the day after the due date.

(3) If a due date with respect to principal has been accelerated, the instrument becomes overdue on the day after the accelerated due date.

Chap. 24

(c) Unless the due date of principal has been accelerated, an instrument does not become overdue if there is default in payment of interest but no default in payment of principal.

Section 3-305. Defenses and Claims in Recoupment.

(a) Except as stated in subsection (b), the right to enforce the obligation of a party to pay an instrument is subject to the following:

(1) a defense of the obligor based on (i) infancy of the obligor to the extent it is a defense to a simple contract, (ii) duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor, (iii) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms, or (iv) discharge of the obligor in insolvency proceedings;

(2) a defense of the obligor stated in another section of this Article or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and

(3) a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument; but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.

(b) The right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to defenses of the obligor stated in paragraph (1) of subsection (a), but is not subject to defenses of the obligor stated in paragraph (2) of subsection (a) or claims in recoupment stated in paragraph (3) of subsection (a) against a person other than the holder.

(c) Except as stated in subsection (d), in an action to enforce the obligation of a party to pay the instrument, the obligor may not assert against the person entitled to enforce the instrument a defense, claim in recoupment, or claim to the instrument, section 3-306, of another person, but the other person's claim to the instrument may be asserted by the obligor if the other person is joined in the action and personally asserts the claim against the person entitled to enforce the instrument. An obligor is not obliged to pay the instrument if the person seeking enforcement of the instrument does not have rights of a holder in due course and the obligor proves that the instrument is a lost or stolen instrument.

(d) In an action to enforce the obligation of an accommodation party to pay an instrument, the accommodation party may assert against the person entitled to enforce the instrument any defense or claim in recoupment under subsection (a) that the accommodated party could assert against the person entitled to enforce the instrument, except the defenses of discharge in insolvency proceedings, infancy, and lack of legal capacity.

Section 3-306. Claims to an Instrument. A person taking an instrument, other than a person having rights of a holder in due course, is subject to a claim of a property or possessory right in the instrument or its proceeds, including a claim to rescind a negotiation and to recover the instrument or its proceeds. A person having rights of a holder in due course takes free of the claim to the instrument.

Section 3-307. Notice of Breach of Fiduciary Duty.

(a) In this section:

(1) "Fiduciary" means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument.

(2) "Represented person" means the principal, beneficiary, partnership, corporation, or other person to whom the duty stated in paragraph (1) is owed.

(b) If (i) an instrument is taken from a fiduciary for payment or collection or for value, (ii) the taker has knowledge of the fiduciary status of the fiduciary, and (iii) the represented person makes a claim to the instrument or its proceeds on the basis that the transaction of the fiduciary is a breach of fiduciary duty, the following rules apply:

(1) Notice of breach of fiduciary duty by the fiduciary is notice of the claim of the represented person.

(2) In the case of an instrument payable to the represented person or the fiduciary as such, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

(3) If an instrument is issued by the represented person or the fiduciary as such, and made payable to the fiduciary personally, the taker does not have notice of the breach of fiduciary duty unless the taker knows of the breach of fiduciary duty.

(4) If an instrument is issued by the represented person or the fiduciary as such, to the taker as payee, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

Section 3-308. Proof of Signatures and Status as Holder in Due Course.

(a) In an action with respect to an instrument, the authenticity of, and authority to make, each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless the action is to enforce the liability of the purported signer and the signer is dead or incompetent at the time of trial of the issue of validity of the signature. If an action to enforce the instrument is brought against a person as the undisclosed principal of a person who signed the instrument as a party to the instrument, the plaintiff has the burden of establishing that the defendant is liable on the instrument as a represented person under subsection (a) of section 3-402.

(b) If the validity of signatures is admitted or proved and there is compliance with subsection (a), a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under section 3-301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the

right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course which are not subject to the defense or claim.

Section 3-309. Enforcement of Lost, Destroyed, or Stolen Instrument.

(a) A person not in possession of an instrument is entitled to enforce the instrument if (i) the person was in possession of the instrument and entitled to enforce it when loss of possession occurred, (ii) the loss of possession was not the result of a transfer by the person or a lawful seizure, and (iii) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, section 3-308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

Section 3-310. Effect of Instrument on Obligation for which Taken.

(a) Unless otherwise agreed, if a certified check, cashier's check, or teller's check is taken for an obligation, the obligation is discharged to the same extent discharge would result if an amount of money equal to the amount of the instrument were taken in payment of the obligation. Discharge of the obligation does not affect any liability that the obligor may have as an indorser of the instrument.

(b) Unless otherwise agreed and except as provided in subsection (a), if a note or an uncertified check is taken for an obligation, the obligation is suspended to the same extent the obligation would be discharged if an amount of money equal to the amount of the instrument were taken, and the following rules apply:

(1) In the case of an uncertified check, suspension of the obligation continues until dishonor of the check or until it is paid or certified. Payment or certification of the check results in discharge of the obligation to the extent of the amount of the check.

(2) In the case of a note, suspension of the obligation continues until dishonor of the note or until it is paid. Payment of the note results in discharge of the obligation to the extent of the payment.

(3) Except as provided in paragraph (4), if the check or note is dishonored and the obligee of the obligation for which the instrument was taken is the person entitled to enforce the instrument, the obligee may enforce either the instrument or the obligation. In the case of an instrument of a third person which is negotiated to the obligee by the obligor, discharge of the obligor on the instrument also discharges the obligation.

(4) If the person entitled to enforce the instrument taken for an obligation is a person other than the obligee, the obligee may not enforce the obligation to the extent the obligation is suspended. If the obligee is the person entitled to enforce the instrument but no longer has

Chap. 24

possession of it because it was lost, stolen, or destroyed, the obligation may not be enforced to the extent of the amount payable on the instrument, and to that extent the obligee's rights against the obligor are limited to enforcement of the instrument.

(c) If an instrument other than one described in subsection (a) or (b) is taken for an obligation, the effect is (i) that stated in subsection (a) if the instrument is one on which a bank is liable as maker or acceptor, or (ii) that stated in subsection (b) in any other case.

Section 3-311. Accord and Satisfaction by Use of Instrument.

(a) If a person against whom a claim is asserted proves that (i) that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, (ii) the amount of the claim was unliquidated or subject to a bona fide dispute, and (iii) the claimant obtained payment of the instrument, the following subsections apply.

(b) Unless subsection (c) applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.

(c) Subject to subsection (d), a claim is not discharged under subsection (b) if either of the following applies:

(1) The claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.

(2) The claimant, whether or not an organization, proves that within 90 days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This paragraph does not apply if the claimant is an organization that sent a statement complying with clause (i) of paragraph (1).

(d) A claim is discharged if the person against whom the claim is asserted proves that within a reasonable time before collection of the instrument was initiated, the claimant, or an agent of the claimant having direct responsibility with respect to the disputed obligation, knew that the instrument was tendered in full satisfaction of the claim.

Section 3-312. Lost, Destroyed, or Stolen Cashier's Check, Teller's Check, or Certified Check.

(a) In this section:

(1) "Check" means a cashier's check, teller's check, or certified check.

(2) "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.

(3) "Declaration of loss" means a written statement, made under penalty of perjury, to the effect that (i) the declarer lost possession of a check, (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in

Chap. 24

the case of a cashier's check or teller's check, (iii) the loss of possession was not the result of a transfer by the declarer or a lawful seizure, and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(4) "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

(b) A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

(1) The claim becomes enforceable at the later of (i) the time the claim is asserted, or (ii) the ninetieth day following the date of the check, in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance, in the case of a certified check.

(2) Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.

(3) If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.

(4) When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to paragraph (1) of subsection (a) of section 4-302, payment to the claimant discharges all liability of the obligated bank with respect to the check.

(c) If the obligated bank pays the amount of a check to a claimant under paragraph (4) of subsection (b) and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid, or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

(d) If a claimant has the right to assert a claim under subsection (b) and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or section 3-309.

PART 4.
LIABILITY OF PARTIES.

Section 3-401. Signature.

(a) A person is not liable on an instrument unless (i) the person signed the instrument, or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under section 3-402.

(b) A signature may be made (i) manually or by means of a device or machine, and (ii) by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.

Section 3-402. Signature by Representative.

(a) If a person acting, or purporting to act, as a representative signs an instrument by signing either the name of the represented person or the name of the signer, the represented person is bound by the signature to the same extent the represented person would be bound if the signature were on a simple contract. If the represented person is bound, the signature of the representative is the "authorized signature of the represented person" and the represented person is liable on the instrument, whether or not identified in the instrument.

(b) If a representative signs the name of the representative to an instrument and the signature is an authorized signature of the represented person, the following rules apply:

(1) If the form of the signature shows unambiguously that the signature is made on behalf of the represented person who is identified in the instrument, the representative is not liable on the instrument.

(2) Subject to subsection (c), if (i) the form of the signature does not show unambiguously that the signature is made in a representative capacity or (ii) the represented person is not identified in the instrument, the representative is liable on the instrument to a holder in due course that took the instrument without notice that the representative was not intended to be liable on the instrument. With respect to any other person, the representative is liable on the instrument unless the representative proves that the original parties did not intend the representative to be liable on the instrument.

(c) If a representative signs the name of the representative as drawer of a check without indication of the representative status and the check is payable from an account of the represented person who is identified on the check, the signer is not liable on the check if the signature is an authorized signature of the represented person.

Section 3-403. Unauthorized Signature.

(a) Unless otherwise provided in this Article or Article 4, an unauthorized signature is ineffective except as the signature of the unauthorized signer in favor of a person who in good faith pays the instrument or takes it for value. An unauthorized signature may be ratified for all purposes of this Article.

(b) If the signature of more than one person is required to constitute the authorized signature of an organization, the signature of the organization is unauthorized if one of the required signatures is lacking.

Chap. 24

(c) The civil or criminal liability of a person who makes an unauthorized signature is not affected by any provision of this Article which makes the unauthorized signature effective for the purposes of this Article.

Section 3-404. Impostors; Fictitious Payees.

(a) If an impostor, by use of the mails or otherwise, induces the issuer of an instrument to issue the instrument to the impostor, or to a person acting in concert with the impostor, by impersonating the payee of the instrument or a person authorized to act for the payee, an indorsement of the instrument by any person in the name of the payee is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

(b) If (i) a person whose intent determines to whom an instrument is payable (section 3-110(a) or (b)) does not intend the person identified as payee to have any interest in the instrument, or (ii) the person identified as payee of an instrument is a fictitious person, the following rules apply until the instrument is negotiated by special indorsement:

(1) Any person in possession of the instrument is its holder.

(2) An indorsement by any person in the name of the payee stated in the instrument is effective as the indorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

(c) Under subsection (a) or (b), an indorsement is made in the name of a payee if (i) it is made in a name substantially similar to that of the payee or (ii) the instrument, whether or not indorsed, is deposited in a depository bank to an account in a name substantially similar to that of the payee.

(d) With respect to an instrument to which subsection (a) or (b) applies, if a person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from payment of the instrument, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

Section 3-405. Employer's Responsibility for Fraudulent Indorsement by Employee.

(a) In this section:

(1) "Employee" includes an independent contractor and employee of an independent contractor retained by the employer.

(2) "Fraudulent indorsement" means (i) in the case of an instrument payable to the employer, a forged indorsement purporting to be that of the employer, or (ii) in the case of an instrument with respect to which the employer is the issuer, a forged indorsement purporting to be that of the person identified as payee.

(3) "Responsibility" with respect to instruments means authority (i) to sign or indorse instruments on behalf of the employer, (ii) to process instruments received by the employer for bookkeeping purposes, for deposit to an account, or for other disposition, (iii) to prepare or process instruments for issue in the name of the employer, (iv) to supply information determining the names or addresses of payees of instruments to be issued in the name of the

employer, (v) to control the disposition of instruments to be issued in the name of the employer, or (vi) to act otherwise with respect to instruments in a responsible capacity. "Responsibility" does not include authority that merely allows an employee to have access to instruments or blank or incomplete instrument forms that are being stored or transported or are part of incoming or outgoing mail, or similar access.

(b) For the purpose of determining the rights and liabilities of a person who, in good faith, pays an instrument or takes it for value or for collection, if an employer entrusted an employee with responsibility with respect to the instrument and the employee or a person acting in concert with the employee makes a fraudulent indorsement of the instrument, the indorsement is effective as the indorsement of the person to whom the instrument is payable if it is made in the name of that person. If the person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from the fraud, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

(c) Under subsection (b), an indorsement is made in the name of the person to whom an instrument is payable if (i) it is made in a name substantially similar to the name of that person or (ii) the instrument, whether or not indorsed, is deposited in a depository bank to an account in a name substantially similar to the name of that person.

Section 3-406. Negligence Contributing to Forged Signature or Alteration of Instrument.

(a) A person whose failure to exercise ordinary care substantially contributes to an alteration of an instrument or to the making of a forged signature on an instrument is precluded from asserting the alteration or the forgery against a person who, in good faith, pays the instrument or takes it for value or for collection.

(b) Under subsection (a), if the person asserting the preclusion fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss, the loss is allocated between the person precluded and the person asserting the preclusion according to the extent to which the failure of each to exercise ordinary care contributed to the loss.

(c) Under subsection (a), the burden of proving failure to exercise ordinary care is on the person asserting the preclusion. Under subsection (b), the burden of proving failure to exercise ordinary care is on the person precluded.

Section 3-407. Alteration.

(a) "Alteration" means (i) an unauthorized change in an instrument that purports to modify in any respect the obligation of a party, or (ii) an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party.

(b) Except as provided in subsection (c), an alteration fraudulently made discharges a party whose obligation is affected by the alteration unless that party assents or is precluded from asserting the alteration. No other alteration discharges a party, and the instrument may be enforced according to its original terms.

Chap. 24

(c) A payor bank or drawee paying a fraudulently altered instrument or a person taking it for value, in good faith and without notice of the alteration, may enforce rights with respect to the instrument (i) according to its original terms, or (ii) in the case of an incomplete instrument altered by unauthorized completion, according to its terms as completed.

Section 3-408. Drawee not Liable on Unaccepted Draft. A check or other draft does not of itself operate as an assignment of funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until the drawee accepts it.

Section 3-409. Acceptance of Draft; Certified Check.

(a) "Acceptance" means the drawee's signed agreement to pay a draft as presented. It must be written on the draft and may consist of the drawee's signature alone. Acceptance may be made at any time and becomes effective when notification pursuant to instructions is given or the accepted draft is delivered for the purpose of giving rights on the acceptance to any person.

(b) A draft may be accepted although it has not been signed by the drawer, is otherwise incomplete, is overdue, or has been dishonored.

(c) If a draft is payable at a fixed period after sight and the acceptor fails to date the acceptance, the holder may complete the acceptance by supplying a date in good faith.

(d) "Certified check" means a check accepted by the bank on which it is drawn. Acceptance may be made as stated in subsection (a) or by a writing on the check which indicates that the check is certified. The drawee of a check has no obligation to certify the check, and refusal to certify is not dishonor of the check.

Section 3-410. Acceptance Varying Draft.

(a) If the terms of a drawee's acceptance vary from the terms of the draft as presented, the holder may refuse the acceptance and treat the draft as dishonored. In that case, the drawee may cancel the acceptance.

(b) The terms of a draft are not varied by an acceptance to pay at a particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at that bank or place.

(c) If the holder assents to an acceptance varying the terms of a draft, the obligation of each drawer and indorser that does not expressly assent to the acceptance is discharged.

Section 3-411. Refusal to Pay Cashier's Checks, Teller's Checks, and Certified Checks.

(a) In this section, "obligated bank" means the acceptor of a certified check or the issuer of a cashier's check or teller's check bought from the issuer.

(b) If the obligated bank wrongfully (i) refuses to pay a cashier's check or certified check, (ii) stops payment of a teller's check, or (iii) refuses to pay a dishonored teller's check, the person asserting the right to enforce the check is entitled to compensation for expenses and loss of interest resulting from the nonpayment and may recover consequential damages if the obligated bank refuses to pay after receiving notice of particular circumstances giving rise to the damages.

(c) Expenses or consequential damages under subsection (b) are not recoverable if the refusal of the obligated bank to pay occurs because (i) the bank suspends payments, (ii) the obligated bank asserts a claim or defense of the bank that it has reasonable grounds to believe is available against the person entitled to enforce the instrument, (iii) the obligated bank has a reasonable doubt whether the person demanding payment is the person entitled to enforce the instrument, or (iv) payment is prohibited by law.

Section 3-412. Obligation of Issuer of Note or Cashier's Check. The issuer of a note or cashier's check or other draft drawn on the drawer is obliged to pay the instrument (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the issuer signed an incomplete instrument, according to its terms when completed, to the extent stated in sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the instrument or to an indorser who paid the instrument under section 3-415.

Section 3-413. Obligation of Acceptor.

(a) The acceptor of a draft is obliged to pay the draft (i) according to its terms at the time it was accepted, even though the acceptance states that the draft is payable "as originally drawn" or equivalent terms, (ii) if the acceptance varies the terms of the draft, according to the terms of the draft as varied, or (iii) if the acceptance is of a draft that is an incomplete instrument, according to its terms when completed, to the extent stated in sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the draft or to the drawer or an indorser who paid the draft under section 3-414 or 3-415.

(b) If the certification of a check or other acceptance of a draft states the amount certified or accepted, the obligation of the acceptor is that amount. If (i) the certification or acceptance does not state an amount, (ii) the amount of the instrument is subsequently raised, and (iii) the instrument is then negotiated to a holder in due course, the obligation of the acceptor is the amount of the instrument at the time it was taken by the holder in due course.

Section 3-414. Obligation of Drawer.

(a) This section does not apply to cashier's checks or other drafts drawn on the drawer.

(b) If an unaccepted draft is dishonored, the drawer is obliged to pay the draft (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the drawer signed an incomplete instrument, according to its terms when completed, to the extent stated in sections 3-115 and 3-407. The obligation is owed to a person entitled to enforce the draft or to an indorser who paid the draft under section 3-415.

(c) If a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance was obtained.

(d) If a draft is accepted and the acceptor is not a bank, the obligation of the drawer to pay the draft if the draft is dishonored by the acceptor is the same as the obligation of an indorser under subsections (a) and (c) of section 3-415.

Chap. 24

(e) If a draft states that it is drawn "without recourse" or otherwise disclaims liability of the drawer to pay the draft, the drawer is not liable under subsection (b) to pay the draft if the draft is not a check. A disclaimer of the liability stated in subsection (b) is not effective if the draft is a check.

(f) If (i) a check is not presented for payment or given to a depository bank for collection within 30 days after its date, (ii) the drawee suspends payments after expiration of the 30 day period without paying the check, and (iii) because of the suspension of payments, the drawer is deprived of funds maintained with the drawee to cover payment of the check, the drawer to the extent deprived of funds may discharge its obligation to pay the check by assigning to the person entitled to enforce the check the rights of the drawer against the drawee with respect to the funds.

Section 3-415. Obligation of Indorser.

(a) Subject to subsections (b), (c), (d), and (e) of this section and to subsection (d) of section 3-419, if an instrument is dishonored, an indorser is obliged to pay the amount due on the instrument (i) according to the terms of the instrument at the time it was indorsed, or (ii) if the indorser indorsed an incomplete instrument, according to its terms when completed, to the extent stated in sections 3-115 and 3-407. The obligation of the indorser is owed to a person entitled to enforce the instrument or to a subsequent indorser who paid the instrument under this section.

(b) If an indorsement states that it is made "without recourse" or otherwise disclaims liability of the indorser, the indorser is not liable under subsection (a) to pay the instrument.

(c) If notice of dishonor of an instrument is required by section 3-503 and notice of dishonor complying with that section is not given to an indorser, the liability of the indorser under subsection (a) is discharged.

(d) If a draft is accepted by a bank after an indorsement is made, the liability of the indorser under subsection (a) is discharged.

(e) If an indorser of a check is liable under subsection (a) and the check is not presented for payment, or given to a depository bank for collection, within 30 days after the day the indorsement was made, the liability of the indorser under subsection (a) is discharged.

Section 3-416. Transfer Warranties.

(a) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:

(1) the warrantor is a person entitled to enforce the instrument;

(2) all signatures on the instrument are authentic and authorized;

(3) the instrument has not been altered;

(4) the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

Chap. 24

(b) A person to whom the warranties under subsection (a) are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(c) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(d) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 3-417. Presentment Warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 3-404 or 3-405 or the drawer is precluded under section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to

Chap. 24

the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 3-418. Payment or Acceptance by Mistake.

(a) Except as provided in subsection (c), if the drawee of a draft pays or accepts the draft and the drawee acted on the mistaken belief that (i) payment of the draft had not been stopped pursuant to section 4-403 or (ii) the signature of the drawer of the draft was authorized, the drawee may recover the amount of the draft from the person to whom or for whose benefit payment was made or, in the case of acceptance, may revoke the acceptance. Rights of the drawee under this subsection are not affected by failure of the drawee to exercise ordinary care in paying or accepting the draft.

(b) Except as provided in subsection (c), if an instrument has been paid or accepted by mistake and the case is not covered by subsection (a), the person paying or accepting may, to the extent permitted by the law governing mistake and restitution, (i) recover the payment from the person to whom or for whose benefit payment was made or (ii) in the case of acceptance, may revoke the acceptance.

(c) The remedies provided by subsection (a) or (b) may not be asserted against a person who took the instrument in good faith and for value or who in good faith changed position in reliance on the payment or acceptance. This subsection does not limit remedies provided by section 3-417 or 4-407.

(d) Notwithstanding section 4-215, if an instrument is paid or accepted by mistake and the payor or acceptor recovers payment or revokes acceptance under subsection (a) or (b), the instrument is deemed not to have been paid or accepted and is treated as dishonored, and the person from whom payment is recovered has rights as a person entitled to enforce the dishonored instrument.

Section 3-419. Instruments Signed for Accommodation.

(a) If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation".

Chap. 24

(b) An accommodation party may sign the instrument as maker, drawer, acceptor, or indorser and, subject to subsection (d), is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.

(c) A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous indorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in section 3-605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

(d) If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if (i) execution of judgment against the other party has been returned unsatisfied, (ii) the other party is insolvent or in an insolvency proceeding, (iii) the other party cannot be served with process, or (iv) it is otherwise apparent that payment cannot be obtained from the other party.

(e) An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. An accommodated party who pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

Section 3-420. Conversion of Instrument.

(a) The law applicable to conversion of personal property applies to instruments. An instrument is also converted if it is taken by transfer, other than a negotiation, from a person not entitled to enforce the instrument or a bank makes or obtains payment with respect to the instrument for a person not entitled to enforce the instrument or receive payment. An action for conversion of an instrument may not be brought by (i) the issuer or acceptor of the instrument or (ii) a payee or indorsee who did not receive delivery of the instrument either directly or through delivery to an agent or a co-payee.

(b) In an action under subsection (a), the measure of liability is presumed to be the amount payable on the instrument, but recovery may not exceed the amount of the plaintiff's interest in the instrument.

(c) A representative, other than a depository bank, who has in good faith dealt with an instrument or its proceeds on behalf of one who was not the person entitled to enforce the instrument is not liable in conversion to that person beyond the amount of any proceeds that it has not paid out.

PART 5.
DISHONOR.

Section 3-501. Presentment.

(a) "Presentment" means a demand made by or on behalf of a person entitled to enforce an instrument (i) to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or (ii) to accept a draft made to the drawee.

(b) The following rules are subject to Article 4, agreement of the parties, and clearinghouse rules and the like:

(1) Presentment may be made at the place of payment of the instrument and must be made at the place of payment if the instrument is payable at a bank in the United States; may be made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

(2) Upon demand of the person to whom presentment is made, the person making presentment must (i) exhibit the instrument, (ii) give reasonable identification and, if presentment is made on behalf of another person, reasonable evidence of authority to do so, and (iii) sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

(3) Without dishonoring the instrument, the party to whom presentment is made may (i) return the instrument for lack of a necessary indorsement, or (ii) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.

(4) The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cut-off hour not earlier than 2 p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cut-off hour.

Section 3-502. Dishonor.

(a) Dishonor of a note is governed by the following rules:

(1) If the note is payable on demand, the note is dishonored if presentment is duly made to the maker and the note is not paid on the day of presentment.

(2) If the note is not payable on demand and is payable at or through a bank or the terms of the note require presentment, the note is dishonored if presentment is duly made and the note is not paid on the day it becomes payable or the day of presentment, whichever is later.

(3) If the note is not payable on demand and paragraph (2) does not apply, the note is dishonored if it is not paid on the day it becomes payable.

(b) Dishonor of an unaccepted draft other than a documentary draft is governed by the following rules:

Chap. 24

(1) If a check is duly presented for payment to the payor bank otherwise than for immediate payment over the counter, the check is dishonored if the payor bank makes timely return of the check or sends timely notice of dishonor or nonpayment under section 4-301 or 4-302, or becomes accountable for the amount of the check under section 4-302.

(2) If a draft is payable on demand and paragraph (1) does not apply, the draft is dishonored if presentment for payment is duly made to the drawee and the draft is not paid on the day of presentment.

(3) If a draft is payable on a date stated in the draft, the draft is dishonored if (i) presentment for payment is duly made to the drawee and payment is not made on the day the draft becomes payable or the day of presentment, whichever is later, or (ii) presentment for acceptance is duly made before the day the draft becomes payable and the draft is not accepted on the day of presentment.

(4) If a draft is payable on elapse of a period of time after sight or acceptance, the draft is dishonored if presentment for acceptance is duly made and the draft is not accepted on the day of presentment.

(c) Dishonor of an unaccepted documentary draft occurs according to the rules stated in paragraphs (2), (3) and (4) of subsection (b), except that payment or acceptance may be delayed without dishonor until no later than the close of the third business day of the drawee following the day on which payment or acceptance is required by those paragraphs.

(d) Dishonor of an accepted draft is governed by the following rules:

(1) If the draft is payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and the draft is not paid on the day of presentment.

(2) If the draft is not payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and payment is not made on the day it becomes payable or the day of presentment, whichever is later.

(e) In any case in which presentment is otherwise required for dishonor under this section and presentment is excused under section 3-504, dishonor occurs without presentment if the instrument is not duly accepted or paid.

(f) If a draft is dishonored because timely acceptance of the draft was not made and the person entitled to demand acceptance consents to a late acceptance, from the time of acceptance the draft is treated as never having been dishonored.

Section 3-503. Notice of Dishonor.

(a) The obligation of an indorser stated in subsection (a) of section 3-415 and the obligation of a drawer stated in subsection (d) of section 3-414 may not be enforced unless (i) the indorser or drawer is given notice of dishonor of the instrument complying with this section or (ii) notice of dishonor is excused under subsection (b) of section 3-504.

(b) Notice of dishonor may be given by any person; may be given by any commercially reasonable means, including an oral, written, or electronic communication; and is sufficient if it reasonably identifies the instrument and indicates that the instrument has been dishonored or has not been paid or accepted. Return of an instrument given to a bank for collection is sufficient notice of dishonor.

Chap. 24

(c) Subject to subsection (c) of section 3-504, with respect to an instrument taken for collection by a collecting bank, notice of dishonor must be given (i) by the bank before midnight of the next banking day following the banking day on which the bank receives notice of dishonor of the instrument, or (ii) by any other person within 30 days following the day on which the person receives notice of dishonor. With respect to any other instrument, notice of dishonor must be given within 30 days following the day on which dishonor occurs.

Section 3-504. Excused Presentment and Notice of Dishonor.

(a) Presentment for payment or acceptance of an instrument is excused if (i) the person entitled to present the instrument cannot with reasonable diligence make presentment, (ii) the maker or acceptor has repudiated an obligation to pay the instrument or is dead or in insolvency proceedings, (iii) by the terms of the instrument presentment is not necessary to enforce the obligation of indorsers or the drawer, (iv) the drawer or indorser whose obligation is being enforced has waived presentment or otherwise has no reason to expect or right to require that the instrument be paid or accepted, or (v) the drawer instructed the drawee not to pay or accept the draft or the drawee was not obligated to the drawer to pay the draft.

(b) Notice of dishonor is excused if (i) by the terms of the instrument notice of dishonor is not necessary to enforce the obligation of a party to pay the instrument, or (ii) the party whose obligation is being enforced waived notice of dishonor. A waiver of presentment is also a waiver of notice of dishonor.

(c) Delay in giving notice of dishonor is excused if the delay was caused by circumstances beyond the control of the person giving the notice and the person giving the notice exercised reasonable diligence after the cause of the delay ceased to operate.

Section 3-505. Evidence of Dishonor.

(a) The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

(1) a document regular in form as provided in subsection (b) which purports to be a protest;

(2) a purported stamp or writing of the drawee, payor bank, or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor;

(3) a book or record of the drawee, payor bank, or collecting bank, kept in the usual course of business which shows dishonor, even if there is no evidence of who made the entry.

(b) A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

PART 6.
DISCHARGE AND PAYMENT.

Section 3-601. Discharge and Effect of Discharge.

(a) The obligation of a party to pay the instrument is discharged as stated in this Article or by an act or agreement with the party which would discharge an obligation to pay money under a simple contract.

(b) Discharge of the obligation of a party is not effective against a person acquiring rights of a holder in due course of the instrument without notice of the discharge.

Section 3-602. Payment.

(a) Subject to subsection (b), an instrument is paid to the extent payment is made (i) by or on behalf of a party obliged to pay the instrument, and (ii) to a person entitled to enforce the instrument. To the extent of the payment, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under section 3-306 by another person.

(b) The obligation of a party to pay the instrument is not discharged under subsection (a) if:

(1) a claim to the instrument under section 3-306 is enforceable against the party receiving payment and (i) payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction, or (ii) in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or

(2) the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

Section 3-603. Tender of Payment.

(a) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

(b) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

(c) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

Section 3-604. Discharge by Cancellation or Renunciation.

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act,

Chap. 24

such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed writing.

(b) Cancellation or striking out of an indorsement pursuant to subsection (a) does not affect the status and rights of a party derived from the indorsement.

Section 3-605. Discharge of Indorsers and Accommodation Parties.

(a) In this section, the term "indorser" includes a drawer having the obligation described in subsection (d) of section 3-414.

(b) Discharge, under section 3-604, of the obligation of a party to pay an instrument does not discharge the obligation of an indorser or accommodation party having a right of recourse against the discharged party.

(c) If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an indorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the indorser or accommodation party proves that the extension caused loss to the indorser or accommodation party with respect to the right of recourse.

(d) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an indorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the indorser or accommodation party with respect to the right of recourse. The loss suffered by the indorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

(e) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an indorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent (i) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge, or (ii) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest. The burden of proving impairment is on the party asserting discharge.

(f) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking

into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection (e), the party is deemed to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

(g) Under subsection (e) or (f), impairing value of an interest in collateral includes (i) failure to obtain or maintain perfection or recordation of the interest in collateral, (ii) release of collateral without substitution of collateral of equal value, (iii) failure to perform a duty to preserve the value of collateral owed, under Article 9 or other law, to a debtor or surety or other person secondarily liable, or (iv) failure to comply with applicable law in disposing of collateral.

(h) An accommodation party is not discharged under subsection (c), (d), or (e) unless the person entitled to enforce the instrument knows of the accommodation or has notice under subsection (c) of section 3-419 that the instrument was signed for accommodation.

(i) A party is not discharged under this section if (i) the party asserting discharge consents to the event or conduct that is the basis of the discharge, or (ii) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

ARTICLE 4.

BANK DEPOSITS AND COLLECTIONS.

Section 4-101. Short Title. This Article may be cited as Uniform Commercial Code - Bank Deposits and Collections.

Section 4-102. Applicability.

(a) To the extent that items within this Article are also within Articles 3 and 8, they are subject to those Articles. If there is conflict, this Article governs Article 3, but Article 8 governs this Article.

(b) The liability of a bank for action or nonaction with respect to an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or nonaction by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

Section 4-103. Variation by Agreement; Measure of Damages; Action Constituting Ordinary Care.

(a) The effect of the provisions of this Article may be varied by agreement, but the parties to the agreement cannot disclaim a bank's responsibility for its lack of good faith or failure to exercise ordinary care or limit the measure of damages for the lack or failure. However, the parties may determine by agreement the standards by which the bank's responsibility is to be measured if those standards are not manifestly unreasonable.

(b) Federal Reserve regulations and operating circulars, clearinghouse rules, and the like, have the effect of agreements under subsection (a), whether or not specifically assented to by all parties interested in items handled.

Chap. 24

(c) Action or nonaction approved by this Article or pursuant to Federal Reserve regulations or operating circulars is the exercise of ordinary care and, in the absence of special instructions, action or nonaction consistent with clearinghouse rules and the like or with a general banking usage not disapproved by this Article, is *prima facie* the exercise of ordinary care.

(d) The specification or approval of certain procedures by this Article is not disapproval of other procedures that may be reasonable under the circumstances.

(e) The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount that could not have been realized by the exercise of ordinary care. If there is also bad faith it includes any other damages, the party suffered as a proximate consequence.

Section 4-104. Definitions and Index of Definitions.

(a) In this Article, unless the context otherwise requires the following words shall have the following meanings:

(1) "Account", any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(2) "Afternoon", the period of a day between noon and midnight.

(3) "Banking day", the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

(4) "Clearinghouse", an association of banks or other payors regularly clearing items.

(5) "Customer", a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(6) "Documentary draft", a draft to be presented for acceptance or payment if specified documents, certificated securities (section 8-102) or instructions for uncertificated securities (section 8-102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(7) "Draft", a draft as defined in section 3-104 or an item, other than an instrument, that is an order.

(8) "Drawee", a person ordered in a draft to make payment.

(9) "Item", an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A or a credit or debit card slip.

(10) "Midnight deadline", with respect to a bank, is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(11) "Settle", to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(12) "Suspends payments", with respect to a bank, means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

Chap. 24

(b) Other definitions applying to this Article and the sections in which they appear are:

"Agreement for electronic presentment".	Section 4-110.
"Bank".	Section 4-105.
"Collecting bank".	Section 4-105.
"Depository bank".	Section 4-105.
"Intermediary bank".	Section 4-105.
"Payor bank".	Section 4-105.
"Presenting bank".	Section 4-105.
"Presentment notice".	Section 4-110.

(c) The following definitions in other Articles apply to this Article:

"Acceptance".	Section 3-409.
"Alteration".	Section 3-407.
"Cashier's check".	Section 3-104.
"Certificate of deposit".	Section 3-104.
"Certified check".	Section 3-409.
"Check".	Section 3-104.
"Good faith".	Section 3-103.
"Holder in due course".	Section 3-302.
"Instrument".	Section 3-104.
"Notice of dishonor".	Section 3-503.
"Order".	Section 3-103.
"Ordinary care".	Section 3-103.
"Person entitled to enforce".	Section 3-301.
"Presentment".	Section 3-501.
"Promise".	Section 3-103.
"Prove".	Section 3-103.
"Teller's check".	Section 3-104.
"Unauthorized signature".	Section 3-403.

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 4-105. Bank; Depository Bank; Payor Bank; Intermediary Bank; Collecting Bank; Presenting Bank.

In this Article the following words shall have the following meanings unless the context clearly requires otherwise:

(1) "Bank", a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company.

(2) "Depository bank", the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter;

(3) "Payor bank", a bank that is the drawee of a draft;

Chap. 24

(4) "Intermediary bank", a bank to which an item is transferred in course of collection except the depository or payor bank;

(5) "Collecting bank", a bank handling an item for collection except the payor bank;

(6) "Presenting bank", a bank presenting an item except a payor bank.

Section 4-106. Payable Through or Payable at Bank; Collecting Bank.

(a) If an item states that it is "payable through" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

(b) If an item states that it is "payable at" a bank identified in the item, the item is equivalent to a draft drawn on the bank.

(c) If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a co-drawee or a collecting bank, the bank is a collecting bank.

Section 4-107. Separate Office of Bank.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notice or orders must be given under this Article and under Article 3.

Section 4-108. Time of Receipt of Items.

(a) For the purpose of allowing time to process items, prove balances, and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of 2 p.m. or later as a cut-off hour for the handling of money and items and the making of entries on its books.

(b) An item or deposit of money received on any day after a cut-off hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

Section 4-109. Delays.

(a) Unless otherwise instructed, a collecting bank in a good faith effort to secure payment of a specific item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this chapter for a period not exceeding two additional banking days without discharge of drawers or indorsers or liability to its transferor or a prior party.

(b) Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this chapter or by instructions is excused if (i) the delay is caused by interruption of communication or computer facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank, and (ii) the bank exercises such diligence as the circumstances require.

Section 4-110. Electronic Presentment.

(a) "Agreement for electronic presentment" means an agreement, clearinghouse rule, or Federal Reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

Chap. 24

(b) Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

(c) If presentment is made by presentment notice, a reference to "item" or "check" in this Article means the presentment notice unless the context otherwise indicates.

Section 4-111. Statute of Limitations. An action to enforce an obligation, duty, or right arising under this Article must be commenced within three years after the cause of action accrues.

Section 4-201. Status of Collecting Bank as Agent and Provisional Status of Credits; Applicability of Article; Item Indorsed Pay any Bank.

(a) Unless a contrary intent clearly appears and before the time that a settlement given by a collecting bank for an item is or becomes final, the bank, with respect to the item, is an agent or subagent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank, such as those resulting from outstanding advances on the item and rights of recoupment or setoff. If an item is handled by banks for purposes of presentment, payment, collection, or return, the relevant provisions of this Article apply even though action of the parties clearly establishes that a particular bank has purchased the item and is the owner of it.

(b) After an item has been indorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder until the item has been:

- (1) returned to the customer initiating collection; or
- (2) specially indorsed by a bank to a person who is not a bank.

Section 4-202. Responsibility for Collection or Return; when Action Timely.

(a) A collecting bank must exercise ordinary care in:

- (1) presenting an item or sending it for presentment;
- (2) sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor after learning that the item has not been paid or accepted, as the case may be;

(3) settling for an item when the bank receives final settlement; and

(4) notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

(b) A collecting bank exercises ordinary care under subsection (a) by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.

(c) Subject to clause (1) of subsection (a), a bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit.

Chap. 24

Section 4-203. Effect of Instructions.

Subject to Article 3 concerning conversion of instruments (section 3-420) and restrictive indorsements (section 3-206), only a collecting bank's transferor can give instructions that affect the bank or constitute notice to it, and a collecting bank is not liable to prior parties for any action taken pursuant to the instructions or in accordance with any agreement with its transferor.

Section 4-204. Methods of Sending and Presenting; Sending Directly to Payor Bank.

(a) A collecting bank shall send items by a reasonably prompt method, taking into consideration relevant instructions, the nature of the item, the number of those items on hand, the cost of collection involved, and the method generally used by it or others to present those items.

(b) A collecting bank may send:

(1) an item directly to the payor bank;

(2) an item to a nonbank payor if authorized by its transferor; and

(3) an item other than documentary drafts to a nonbank payor, if authorized by Federal Reserve regulation or operating circular, clearinghouse rule, or the like.

(c) Presentment may be made by a presenting bank at a place where the payor bank or other payor has requested that presentment be made.

Section 4-205. Depositary Bank Holder of Unindorsed Item. If a customer delivers an item to a depositary bank for collection:

(1) the depositary bank becomes a holder of the item at the time it receives the item for collection if the customer at the time of delivery was a holder of the item, whether or not the customer indorses the item, and, if the bank satisfies the other requirements of section 3-302, it is a holder in due course; and

(2) the depositary bank warrants to collecting banks, the payor bank or other payor, and the drawer that the amount of the item was paid to the customer or deposited to the customer's account.

Section 4-206. Transfer Between Banks.

Any agreed method that identifies the transferor bank is sufficient for the item's further transfer to another bank.

Section 4-207. Transfer Warranties.

(a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

(1) the warrantor is a person entitled to enforce the item;

(2) all signatures on the item are authentic and authorized;

(3) the item has not been altered;

(4) the item is not subject to a defense or claim in recoupment (section 3-305(a)) of any party that can be asserted against the warrantor; and

(5) the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

Chap. 24

(b) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (i) according to the terms of the item at the time it was transferred, or (ii) if the transfer was of an incomplete item, according to its terms when completed as stated in sections 3-115 and 3-407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

(c) A person to whom the warranties under subsection (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(d) The warranties stated in subsection (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(e) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 4-208. Presentment Warranties.

(a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

(1) the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

(2) the draft has not been altered; and

(3) the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (i) breach of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on

Chap. 24

an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under Section 3-404 or 3-405 or the drawer is precluded under section 3-406 or 4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Section 4-209. Encoding and Retention Warranties.

(a) A person who encodes information on or with respect to an item after issue warrants to any subsequent collecting bank and to the payor bank or other payor that the information is correctly encoded. If the customer of a depository bank encodes, that bank also makes the warranty.

(b) A person who undertakes to retain an item pursuant to an agreement for electronic presentment warrants to any subsequent collecting bank and to the payor bank or other payor that retention and presentment of the item comply with the agreement. If a customer of a depository bank undertakes to retain an item, that bank also makes this warranty.

(c) A person to whom warranties are made under this section and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, plus expenses and loss of interest incurred as a result of the breach.

Section 4-210. Security Interest of Collecting Bank in Items, Accompanying Documents and Proceeds.

(a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or

Chap. 24

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to Article 9, but:

(1) no security agreement is necessary to make the security interest enforceable (section 9-203(1)(a));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 4-211. When Bank Gives Value for Purposes of Holder in Due Course. For purposes of determining its status as a holder in due course, a bank has given value to the extent it has a security interest in an item, if the bank otherwise complies with the requirements of section 3-302 on what constitutes a holder in due course.

Section 4-212. Presentment by Notice of Item not Payable by, through, or at Bank; Liability of Drawer or Indorser.

(a) Unless otherwise instructed, a collecting bank may present an item not payable by, through, or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under section 3-501 by the close of the bank's next banking day after it knows of the requirement.

(b) If presentment is made by notice and payment, acceptance, or request for compliance with a requirement under section 3-501 is not received by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any drawer or indorser by sending it notice of the facts.

Section 4-213. Medium and Time of Settlement by Bank.

(a) With respect to settlement by a bank, the medium and time of settlement may be prescribed by Federal Reserve regulations or circulars, clearinghouse rules, and the like, or agreement. In the absence of such prescription:

(1) the medium of settlement is cash or credit to an account in a Federal Reserve bank of or specified by the person to receive settlement; and

(2) the time of settlement, is:

(i) with respect to tender of settlement by cash, a cashier's check, or teller's check, when the cash or check is sent or delivered;

Chap. 24

(ii) with respect to tender of settlement by credit in an account in a Federal Reserve bank, when the credit is made;

(iii) with respect to tender of settlement by a credit or debit to an account in a bank, when the credit or debit is made or, in the case of tender of settlement by authority to charge an account, when the authority is sent or delivered; or

(iv) with respect to tender of settlement by a funds transfer, when payment is made pursuant to subsection (a) of section 4A-406 to the person receiving settlement.

(b) If the tender of settlement is not by a medium authorized by subsection (a) or the time of settlement is not fixed by subsection (a), no settlement occurs until the tender of settlement is accepted by the person receiving settlement.

(c) If settlement for an item is made by cashier's check or teller's check and the person receiving settlement, before its midnight deadline:

(1) presents or forwards the check for collection, settlement is final when the check is finally paid; or

(2) fails to present or forward the check for collection, settlement is final at the midnight deadline of the person receiving settlement.

(d) If settlement for an item is made by giving authority to charge the account of the bank giving settlement in the bank receiving settlement, settlement is final when the charge is made by the bank receiving settlement if there are funds available in the account for the amount of the item.

Section 4-214. Right of Charge-Back or Refund; Liability of Collecting Bank; Return of Item.

(a) If a collecting bank has made provisional settlement with its customer for an item and fails by reason of dishonor, suspension of payments by a bank, or otherwise to receive settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge-back the amount of any credit given for the item to its customer's account, or obtain refund from its customer, whether or not it is able to return the item, if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. If the return or notice is delayed beyond the bank's midnight deadline or a longer reasonable time after it learns the facts, the bank may revoke the settlement, charge-back the credit, or obtain refund from its customer, but it is liable for any loss resulting from the delay. These rights to revoke, charge-back, and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final.

(b) A collecting bank returns an item when it is sent or delivered to the bank's customer or transferor or pursuant to its instructions.

(c) A depository bank that is also the payor may charge-back the amount of an item to its customer's account or obtain refund in accordance with section 4-301, governing return of an item received by a payor bank for credit on its books.

(d) The right to charge-back is not affected by:

(1) previous use of a credit given for the item; or

Chap. 24

(2) failure by any bank to exercise ordinary care with respect to the item, but a bank so failing remains liable.

(e) A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

(f) If credit is given in dollars as the equivalent of the value of an item payable in foreign money, the dollar amount of any charge-back or refund must be calculated on the basis of the bank-offered spot rate for the foreign money prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

Section 4-215. Final Payment of Item by Payor Bank; When Provisional Debits and Credits Become Final; When Certain Credits Become Available for Withdrawal.

(a) An item is finally paid by a payor bank when the bank has first done any of the following:

(1) paid the item in cash;

(2) settled for the item without having a right to revoke the settlement under statute, clearinghouse rule, or agreement; or

(3) made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearinghouse rule, or agreement.

(b) If provisional settlement for an item does not become final, the item is not finally paid.

(c) If provisional settlement for an item between the presenting and payor banks is made through a clearinghouse or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the items by the payor bank.

(d) If a collecting bank receives a settlement for an item which is or becomes final, the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(e) Subject to (i) applicable law stating a time for availability of funds and (ii) any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in a customer's account becomes available for withdrawal as of right:

(1) if the bank has received a provisional settlement for the item, when the settlement becomes final and the bank has had a reasonable time to receive return of the item and the item has not been received within that time;

(2) if the bank is both the depository bank and the payor bank, and the item is finally paid, at the opening of the bank's second banking day following receipt of the item.

(f) Subject to applicable law stating a time for availability of funds and any right of a bank to apply a deposit to an obligation of the depositor, a deposit of money becomes available for withdrawal as of right at the opening of the bank's next banking day after receipt of the deposit.

Chap. 24

Section 4-216. Insolvency and Preference.

(a) If an item is in or comes into the possession of a payor or collecting bank that suspends payment and the item has not been finally paid, the item must be returned by the receiver, trustee, or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

(b) If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

(c) If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the settlement's becoming final if the finality occurs automatically upon the lapse of certain time or the happening of certain events.

(d) If a collecting bank receives from subsequent parties settlement for an item, which settlement is or becomes final and the bank suspends payments without making a settlement for the item with its customer which settlement is or becomes final, the owner of the item has a preferred claim against the collecting bank.

Section 4-301. Deferred Posting; Recovery of Payment by Return of Items; Time of Dishonor; Return of Items by Payor Bank.

(a) If a payor bank settles for a demand item other than a documentary draft presented otherwise than for immediate payment over the counter before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover the settlement if, before it has made final payment and before its midnight deadline, it:

(1) returns the item; or

(2) sends written notice of dishonor or nonpayment if the item is unavailable for return.

(b) If a demand item is received by a payor bank for credit on its books, it may return the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in subsection (a).

(c) Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent in accordance with this section.

(d) An item is returned:

(1) as to an item presented through a clearinghouse, when it is delivered to the presenting or last collecting bank or to the clearinghouse or is sent or delivered in accordance with clearinghouse rules; or

(2) in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to instructions.

Section 4-302. Payor Bank's Responsibility for Late Return of Item.

(a) If an item is presented to and received by a payor bank, the bank is accountable for the amount of:

Chap. 24

(1) a demand item, other than a documentary draft, whether properly payable or not, if the bank, in any case in which it is not also the depository bank, retains the item beyond midnight of the banking day of receipt without settling for it or, whether or not it is also the depository bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

(2) any other properly payable item unless, within the time allowed for acceptance or payment of that item, the bank either accepts or pays the item or returns it and accompanying documents.

(b) The liability of a payor bank to pay an item pursuant to subsection (a) is subject to defenses based on breach of a presentment warranty (section 4-208) or proof that the person seeking enforcement of the liability presented or transferred the item for the purpose of defrauding the payor bank.

Section 4-303. When Items Subject to Notice, Stop-Payment Order, Legal Process, or Setoff; Order in Which Items may be Charged or Certified.

(a) Any knowledge, notice, or stop-payment order received by, legal process served upon, or setoff exercised by a payor bank comes too late to terminate, suspend, or modify the bank's right or duty to pay an item or to charge its customer's account for the item if the knowledge, notice, stop-payment order, or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the earliest of the following:

(1) the bank accepts or certifies the item;

(2) the bank pays the item in cash;

(3) the bank settles for the item without having a right to revoke the settlement under statute, clearinghouse rule, or agreement;

(4) the bank becomes accountable for the amount of the item under section 4-302 dealing with the payor bank's responsibility for late return of items; or

(5) with respect to checks, a cut-off hour no earlier than one hour after the opening of the next banking day after the banking day on which the bank received the check and no later than the close of that next banking day or, if no cut-off hour is fixed, the close of the next banking day after the banking day on which the bank received the check.

(b) Subject to subsection (a), items may be accepted, paid, certified, or charged to the indicated account of its customer in any order.

Section 4-401. When Bank may Charge Customer's Account.

(a) A bank may charge against the account of a customer an item that is properly payable from that account even though the charge creates an overdraft. An item is properly payable if it is authorized by the customer and is in accordance with any agreement between the customer and bank.

(b) A customer is not liable for the amount of an overdraft if the customer neither signed the item nor benefited from the proceeds of the item.

(c) A bank may charge against the account of a customer a check that is otherwise properly payable from the account, even though payment was made before the date of the

Chap. 24

check, unless the customer has given notice to the bank of the postdating describing the check with reasonable certainty. The notice is effective for the period stated in subsection (b) of section 4-403 for stop-payment orders, and must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it before the bank takes any action with respect to the check described in section 4-303. If a bank charges against the account of a customer a check before the date stated in the notice of postdating, the bank is liable for damages for the loss resulting from its act. The loss may include damages for dishonor of subsequent items under section 4-402.

(d) A bank that in good faith makes payment to a holder may charge the indicated account of its customer according to:

(1) the original terms of the altered item; or

(2) the terms of the completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

Section 4-402. Bank's Liability to Customer for Wrongful Dishonor; Time of Determining Insufficiency of Account.

(a) Except as otherwise provided in this Article, a payor bank wrongfully dishonors an item if it dishonors an item that is properly payable, but a bank may dishonor an item that would create an overdraft unless it has agreed to pay the overdraft.

(b) A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. Liability is limited to actual damages proved and may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

(c) A payor bank's determination of the customer's account balance on which a decision to dishonor for insufficiency of available funds is based may be made at any time between the time the item is received by the payor bank and the time that the payor bank returns the item or gives notice in lieu of return, and no more than one determination need be made. If, at the election of the payor bank, a subsequent balance determination is made for the purpose of reevaluating the bank's decision to dishonor the item, the account balance at that time is determinative of whether a dishonor for insufficiency of available funds is wrongful.

Section 4-403. Customer's Right to Stop Payment; Burden of Proof of Loss.

(a) A customer or any person authorized to draw on the account if there is more than one person may stop payment of any item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in section 4-303. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

(b) A stop-payment order is effective for six months, but it lapses after 14 calendar days if the original order was oral and was not confirmed in writing within that period. A

Chap. 24

stop-payment order may be renewed for additional six month periods by a writing given to the bank within a period during which the stop-payment order is effective.

(c) The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under section 4-402.

Section 4-404. Bank not Obligated to Pay Check More Than Six Months Old.

A bank is under no obligation to a customer having a checking account to pay a check, other than a certified check, which is presented more than six months after its date, but it may charge its customer's account for a payment made thereafter in good faith.

Section 4-405. Death or Incompetence of Customer.

(a) A payor or collecting bank's authority to accept, pay, or collect an item or to account for proceeds of its collection, if otherwise effective, is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes the authority to accept, pay, collect, or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

(b) Even with knowledge, a bank may for ten days after the date of death pay or certify checks drawn on or before that date unless ordered to stop payment by a person claiming an interest in the account.

Section 4-406. Customer's Duty to Discover and Report Unauthorized Signature or Alteration.

(a) A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid. The statement of account provides sufficient information if the item is described by item number, amount, and date of payment.

(b) If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of seven years after receipt of the items. A customer may request an item from the bank that paid the item, and that bank must provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item.

(c) If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

Chap. 24

(d) If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subsection (c), the customer is precluded from asserting against the bank:

(1) the customer's unauthorized signature or any alteration on the item, if the bank also proves that it suffered a loss by reason of the failure; and

(2) the customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding 30 days, in which to examine the item or statement of account and notify the bank.

(e) If subsection (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure substantially contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year after the statement or items are made available to the customer (subsection (a)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under section 4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

(g) The provisions of this section are subject to section 27 of chapter 167D.

Section 4-407. Payor Bank's Right to Subrogation on Improper Payment. If a payor bank has paid an item over the order of the drawer or maker to stop payment, or after an account has been closed, or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank is subrogated to the rights:

(1) of any holder in due course on the item against the drawer or maker;

(2) of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

(3) of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

Section 4-501. Handling of Documentary Drafts; Duty to Send for Presentment and to Notify Customer of Dishonor. A bank that takes a documentary draft for collection shall present or send the draft and accompanying documents for presentment and, upon learning that the draft has not been paid or accepted in due course, shall seasonably notify its customer of the fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right.

Chap. 24

Section 4-502. Presentment of "On Arrival" Drafts. If a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of the refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

Section 4-503. Responsibility of Presenting Bank for Documents and Goods; Report of Reasons for Dishonor; Referee in Case of Need. Unless otherwise instructed and except as provided in Article 5, a bank presenting a documentary draft:

(1) must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

(2) upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or, if the presenting bank does not choose to utilize the referee's services, it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor, and must request instructions.

However the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for those expenses.

Section 4-504. Privilege of Presenting Bank to Deal with Goods; Security Interest for Expenses.

(a) A presenting bank that, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

(b) For its reasonable expenses incurred by action under subsection (a), the presenting bank has a lien upon the goods or their proceeds, which may be foreclosed in the same manner as an unpaid seller's lien.

SECTION 9. Subsection (3) of section 5-103 of said chapter 106, as so appearing, is hereby amended by striking out, in line 30, the word "Section 3-410" and inserting in place thereof the word:- Article 3.

SECTION 10. Section 9-203 of said chapter 106, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the word "section 4-208" and inserting in place thereof the following word:- section 4-210.

SECTION 11. Section 9-206 of said chapter 106, as so appearing, is hereby amended by striking out, in line 8, the words "Commercial Paper" and inserting in place thereof the words:- Negotiable Instruments.

SECTION 12. Section 9-302 of said chapter 106, as so appearing, is hereby amended by striking out, in line 17, the word "(Section 4-208)" and inserting in place thereof the following word:- (section 4-210).

Chap. 24

SECTION 13. Section 27 of chapter 167D of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The provisions of section 4-406 of chapter 106 shall be subject to the provisions of this section.

SECTION 14. Chapter 233 of the General Laws is hereby amended by inserting after Section 77 the following section:-

Section 77A. A statement of account of a bank showing payment of a check or other item, together with a legible copy of the check or other item, shall be competent evidence in all cases to constitute prima facie proof of the payment in the amount of the check or other item. For the purposes of this section, the terms "bank", "check" and "item" shall have the meanings set forth in Article 4 of chapter 106.

SECTION 15. Section 12C of chapter 255 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- If any contract for sale of consumer goods on credit entered into in the commonwealth between a retail seller and a retail buyer requires or involves the execution of a promissory note, such note shall have printed on the face thereof the words "consumer note", and the holder of such a note cannot be a holder in due course thereof within the meaning of Article 3 of chapter 106.

SECTION 16. Sections 3-118 and 4-111 of chapter 106 of the General Laws, inserted by section 10 of this act, shall not apply to any causes of action that have accrued before the effective date of this act.

Approved February 12, 1998.

Chapter 25. AN ACT AUTHORIZING CERTAIN STRUCTURES TO BE EXEMPTED FROM CERTAIN HARBOR LINES WITHIN SAVIN HILL BAY IN THE DORCHESTER SECTION OF THE CITY OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain structures to be exempted from certain harbor lines, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections 14 and 34 of chapter 91 of the General Laws or any other general or special law to the contrary, the department of environmental protection is hereby authorized to grant a license to the Dorchester Yacht Club located in the Dorchester section of the city of Boston in the western section of Savin Hill bay to maintain and repair for their current use certain piers, docks, floats and moorings permitted to said

Chap. 25

yacht club by the metropolitan district commission as of January 1, 1996, which are located in whole or in part beyond the harbor lines in Dorchester bay and Savin Hill bay, such harbor lines having been established and authorized by certain laws including, but not limited to, chapter 312 of the acts of 1931 and chapter 534 of the acts of 1955; provided, however, that not more than 165 vessels used for boating or yachting purposes shall be accommodated or attached at any one time to the piers, docks and floats at the premises authorized to be licensed herein; and provided further, that not more than 16 vessels used for boating or yachting purposes shall be accommodated or attached at any one time to moorings at or about the premises authorized to be licensed herein.

Approved February 12, 1998.

Chapter 26. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTHBRIDGE AS THE ROSAIRE J. "ROSS" RAJOTTE BRIDGE.

Be it enacted, etc., as follows:

The bridge, N-21-0002, spanning the Blackstone river on state highway route 122 in the town of Northbridge, shall be designated and known as the Rosaire J. "Ross" Rajotte Bridge, in honor in Rosaire J. "Ross" Rajotte, who has dedicated his life to public service and has served his country, state, and town as a decorated veteran of World War II. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved February 12, 1998.

Chapter 27. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF NORTHBRIDGE AS THE CHARLES AMPAGOOMIAN, SR. MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The bridge, N-2112, spanning the Providence and Worcester Railroad Company tracks on state highway route 122 in the town of Northbridge, shall be designated and known as the Charles Ampagoomian, Sr. Memorial Bridge, in memory of the late Charles Ampagoomian, Sr., who served his country gallantly in the United States Army in World War II and dedicated his life to the town of Northbridge by exemplary service in town government, and as a dedicated volunteer for numerous senior citizen organizations. A suitable marker bearing said designation shall be attached thereto by the department of highways in compliance with the standards of said department.

Approved February 12, 1998.

Chapter 28. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sum set forth in section 2 shall be appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in the general appropriation act or other appropriation acts for the fiscal year ending June 30, 1998. The sum appropriated in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of said item.

SECTION 2.
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Reserves.

1599-3845 For a reserve for rent and other expenses related to the relocation of state agencies required in order to renovate the Saltonstall state office building; provided, that upon approval of the secretary of administration and finance, funds appropriated herein may be transferred to other items of appropriation and allocations thereof for said expenses; provided further, that said secretary shall file a quarterly report with the house and senate committees on ways and means detailing said expenses and the status of said agency relocations; and provided further, that said secretary shall file a detailed analysis of the conditions in said building that warrant said renovation and an estimate of the projected renovation costs and the financing costs therefor not later than 30 days after the effective date of this act \$10,000,000

SECTION 3. This act shall take effect upon its passage.
Approved February 17, 1998.

Chapter 29. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of a certain act relative to certain state land, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Chap. 29

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the bonds which the state treasurer is authorized to issue under section 12 of chapter 309 of the acts of 1996 shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2018, as recommended by the governor in a message to the general court dated May 27, 1997, pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 13 of chapter 309 of the acts of 1996 shall be issued and may be renewed one or more times not exceeding one year and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2003, as recommended by the governor in a message to the general court dated May 27, 1997, pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved February 18, 1998.

Chapter 30. AN ACT REQUIRING A CERTAIN LEASEHOLD INTEREST IN THE STATE TRANSPORTATION BUILDING TO BE ASSESSED AS A SEPARATE PARCEL OF REAL ESTATE.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the term "leasehold interest" shall mean the leasehold interest created in a portion of the state transportation building in the city of Boston pursuant to the certain Master Lease and Garage Operating Agreement dated September 12, 1985 by and between the commonwealth and the Theater District Limited Partnership, as the same may be assigned or amended, but not the fee interest in any part of said building.

SECTION 2. At any time when title to the state transportation building is not in the commonwealth or a public body not subject to real estate taxes, then notwithstanding the provisions of chapter 59 of the General Laws or any other general or special law to the contrary, the leasehold interest shall be assessed and taxed as a parcel of real property separate and distinct from all other real and personal property; provided, however, that no nonpayment of taxes assessed to any other real or personal property, including any other interest in or portion of the state transportation building in the city of Boston, shall create any lien upon, or affect, or allow the termination of the leasehold interest.

Chap. 30

This bill was returned by the Lieutenant-Governor, Acting Governor to the Senate, the branch in which it originated, with his objections thereto, was passed by the Senate on January 29, 1998, and by the House of Representatives on February 11, 1998, the objections of the Lieutenant-Governor, Acting Governor notwithstanding, in the manner prescribed by the Constitution, and therefore has the force of law.

Chapter 31. AN ACT AUTHORIZING THE BOARD OF LICENSE COMMISSIONERS TO DECREASE THE HOURS OF OPERATION OF CERTAIN LICENSEES AUTHORIZED TO SELL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES IN THE CITY OF CAMBRIDGE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 15 of chapter 138 of the General Laws, the board of license commissioners of the city of Cambridge may decrease the hours during which sales of alcoholic beverages not to be drunk on the premises may be made; provided, however, that said board shall hold a public hearing concerning the public need for such decrease; provided, further, that any licensee affected by such decrease shall be given two weeks notice of such public hearing; and provided further, that no licensee authorized to make sales of alcoholic beverages not to be drunk on the premises shall be prohibited from making such sales after 10 o'clock ante meridiem and before 11 o'clock post meridiem. A licensee whose hours are decreased pursuant to the provisions of this act may not be barred from opening the premises between the hours of 8 o'clock ante meridiem and 10 o'clock ante meridiem provided that no sales of alcoholic beverages shall be made during the hours when such sales are prohibited by said board. Subject to the provisions of this act, said board shall have discretion to affect the hours of (i) an individual licensee authorized to sell alcoholic beverages not to be drunk on the premises; or (ii) all licensees authorized to sell alcoholic beverages not to be drunk on the premises. A licensee aggrieved by any such decrease in hours may bring a civil action in the nature of certiorari against said board pursuant to section 4 of chapter 249 of the General Laws.

Approved February 20, 1998.

Chapter 32. AN ACT AUTHORIZING A PAYMENT IN LIEU OF TAXES AGREEMENT BETWEEN THE CITY OF SALEM AND THE NEW ENGLAND POWER COMPANY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the

Chap. 32

contrary, the city of Salem acting by and through its mayor is hereby authorized to enter into a binding contract with New England Power Company concerning the assessed value of the real and personal property of said New England Power Company in said city of Salem for the fiscal years 1997 to 2007, inclusive, and the real and personal property taxes to be paid to said city of Salem by said New England Power Company during said fiscal years.

SECTION 2. The agreement made between the city of Salem and New England Power Company dated July 21, 1997 is hereby ratified, validated, and confirmed in all respects as though this act had been in full force and effect at the execution of said agreement.

SECTION 3. If, in any year during which the agreement specified in section 2 is operative, and as a result of such agreement, the amount of taxes to be assessed to New England Power Company, together with all other taxes assessed by the city of Salem, exceeds the levy limit of said city of Salem for that fiscal year under the limits imposed by section 21C of chapter 59 of the General Laws, the levy of said city of Salem for the ensuing fiscal year shall not exceed the levy limit for that fiscal year minus the amount the levy limit for the immediately preceding fiscal year was so exceeded.

SECTION 4. This act shall take effect upon its passage.

Approved February 20, 1998.

Chapter 33. AN ACT RELATIVE TO THE BOUNDARIES OF THE CHERRY VALLEY SEWER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 729 of the acts of 1963 is hereby repealed.

SECTION 2. The inhabitants of the town of Leicester liable to taxation in said town, and residing within the territory enclosed by the following boundary lines shall constitute a sewer district:

Beginning at the Southeast corner of the Leicester Water Supply District as shown on the Leicester, Massachusetts Sewerage Plan prepared by William E. Stanley, Sanitary Engineer, Belmont, MA, dated May 21, 1959;

Thence extending approximately 2,700 \pm feet in the northerly direction along the easterly boundary of the Leicester Water Supply District to a point located at the junction of the northern line of Main Street and western line of Waite Street;

Thence extending approximately 300 feet \pm in a northeasterly direction along the western line of Waite Street to a point;

Thence extending approximately 1,875 \pm feet in an easterly direction along a line parallel to the center line of Main Street to a point;

Thence extending approximately 3,300 \pm feet in a northeasterly direction to a point;

Thence extending approximately 3,150 \pm feet in an easterly direction to a point;

Chap. 33

Thence extending approximately 5,600 ± feet to a stone monument identified as the boundary marker for the Cherry Valley and Rochdale Water District;

Thence extending approximately 4,208 ± feet in a southwesterly direction to a point;

Thence extending approximately 3,920 ± feet west to a point located on the westerly line of Henshaw Street;

Thence extending in a northerly direction along a line parallel to the center line of Henshaw Street to the point of beginning.

Said sewer district is hereby made a body corporate by the name of the Cherry Valley Sewer District, hereinafter called the district, for the purpose of laying out, constructing, maintaining and operating a system or systems of common sewers for a part or the whole of the territory herein described with such connections and other works as may be required for a system of sewage disposal and may construct such sewers in said district as may be necessary, and for the purpose of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of said district, subject to all general laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall have power to prosecute and defend all actions relating to its property and affairs.

SECTION 3. The commissioners of the Cherry Valley Sewer District elected prior to the effective date of this act shall by warrant call a special district meeting within 60 days following the effective date of this act for the purpose of electing their successors. At the special district meeting, the district shall elect by ballot a board of three sewer commissioners who shall be registered voters of the town of Leicester and residents of the district, to hold office, one until the expiration of one year, one until the expiration of two years, and one until the expiration of three years, from the next succeeding annual district meeting, and until their successors are qualified, and thereafter, at each annual district meeting when the term of a member expires, the district shall elect one member of the board to serve for three years or until his successor is qualified.

SECTION 4. Thereafter meetings of the district shall be called by warrant of the commissioners at the time stated in the warrant, or on petition of voters of the town of Leicester residing within the district addressed to the commissioners, as specified in section 119 of chapter 41 of the General Laws. The clerk of the district shall give notice of the meeting by posting copies of the warrant in two or more public places in the district and by delivering a copy to the town clerk of said town of Leicester, seven days at least before the time of the meeting. At all district meetings the district clerk shall preside until a moderator is chosen. The meeting may then proceed to act on the articles contained in the warrant.

SECTION 5. All the authority granted to the district by this act, and not otherwise specifically provided for, shall be vested in the board of sewer commissioners, who shall be subject however to such instructions, rules and regulations as the district has previously or may impose by its vote. A majority of the board of sewer commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in the board of sewer commissioners from any cause may be filled for the remainder of the unexpired term by the

district at any legal meeting called for the purpose. No money shall be drawn from the district treasury except by a written order of a majority of the board of sewer commissioners. The board of sewer commissioners shall annually make a full report to the district in writing of their doings and expenditures.

SECTION 6. The board of sewer commissioners shall annually appoint a clerk and a treasurer and may appoint a superintendent of sewers who shall not be a member of the board, and shall define their duties. It may remove the clerk, treasurer or superintendent at its pleasure. The treasurer shall not be a sewer commissioner, and shall give bond to the district in such amount as may be approved by said sewer commissioners and with a surety company authorized to transact business in the commonwealth as surety.

SECTION 7. The board of sewer commissioners may, in its discretion, prescribe for the users of said sewer system such annual use charges based on the benefits derived therefrom as it may deem proper, subject, however, to such rules and regulations as may be fixed by vote of the district.

SECTION 8. For the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, the district may borrow such sums as may be necessary and may issue from time to time bonds or notes in accordance with the General Laws.

SECTION 9. The district shall raise annually by taxation a sum which, with the income derived from user and connection fees, shall be sufficient to pay the current annual expenses of operating its sewer works and the interest accruing on any bonds or notes issued by the district, together with such payments of the principal thereof as may be required. The district is further authorized by a majority vote of its voters, present and voting at a legal meeting called for the purpose, to raise by taxation any sum of money for the purpose of enlarging, repairing, maintaining, or extending its sewer works or of providing additional equipment and fixtures connected therewith.

SECTION 10. Whenever a tax is duly voted by the district for the purpose of this act, the district clerk shall deliver a certified copy of the vote to the assessors of the town of Leicester, who shall assess the same in the manner in which town taxes are required by law to be assessed; provided, however, that no estate shall be subject to any tax assessed on account of the system of sewer supply under this act, if, in the judgment of the board of sewer commissioners hereinbefore provided for, after a hearing, due notice of which shall have been given, such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with sewer connections from the system in any ordinary or reasonable manner; but all other estates in the district shall be deemed to be benefited and shall be subject to the tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by the board of sewer commissioners to the assessors, at the same time at which the district clerk shall send a certified copy of the vote as aforesaid. The assessment shall be committed to tax collectors for the town of Leicester, who shall collect the tax in the manner provided for the collection

Chap. 33

of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on taxes when overdue in the manner in which interest is authorized to be collected on town taxes.

SECTION 11. The receipts from sewer assessments and from payments made in lieu thereof shall be applied to the payment of charges and expenses incident to the maintenance and operation of said system of sewerage and sewage disposal or to the extension thereof, to the payment of interest upon bonds or notes issued for sewer purposes or to the payment or redemption of such bonds or notes.

SECTION 12. Said board of sewer commissioners, acting for and on behalf of said district, may take by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise, any lands, sewer rights, rights of way or easements, public or private, in said district, necessary for accomplishing any purpose mentioned in this act, and may construct such main drains and sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and may enter upon and dig up any private land, public way or railroad location, for the purpose of laying such drains and sewers and of maintaining and repairing the same, and may do any other thing proper or necessary for the purposes of this act; provided, however, that they shall not take in fee any land of a railroad corporation, and that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the department of public utilities.

SECTION 13. Any person injured in his property by any action of said board of sewer commissioners under this act may recover damages from said district under chapter 79 of the General Laws.

SECTION 14. All contracts made by the board of sewer commissioners shall be made in the name of the district and shall be signed by the board, and the district may enter into agreements and contracts with other districts, sewer departments, municipalities or individuals for the purpose of making connections for the collection, purification and disposal of sewage.

SECTION 15. The by-laws and rules and regulations of the former Cherry Valley Sewer District, which were in effect at the time of the effective date of this act shall remain in full force and effect upon the passage of this act. The board of sewer commissioners may, from time to time, prescribe new rules and regulations for the connection of estates and buildings with main drains and sewers, and for inspection of the materials, the construction, alteration and use of all connections and drains entering into such main drains or sewers, and may prescribe penalties, for each violation of any such rule or regulation.

SECTION 16. Owners of real estate in areas previously located within the district boundaries under chapter 729 of the acts of 1963, if not served by a suitable means of sewerage disposal, may reenter the district by submitting a petition to the board of sewer commissioners to have their real estate included within the district. The petition shall be in

Chap. 33

writing, accurately describing the land and signed by the owners, or a majority of the owners, of the land. The commissioners shall allow the petition within 30 days of receipt and the district clerk shall within ten days thereafter file with the town clerk of Leicester and with the secretary of state an attested copy of said petition and the commissioners vote and, thereupon said real estate shall become and be part of the district and shall be holder under this act in the same manner and to the same extent as the real estate described in section 1. Petitioners reentering the district shall pay no fee for reentry, however, they shall bear all costs associated with the annexation, including but not limited to permit and connection fees, engineering and legal costs, installation of pipes and other equipment, and alterations to the existing distribution system necessitated by the annexation, but excepting increases in the capacity of the district's inceptor and lateral sewers which may be necessitated by such reentry. The applicant shall also comply with all rules and regulations governing annexations as may be promulgated by the board of sewer commissioners, from time to time.

SECTION 17. Owners of real estate not previously located within the district, but abutting in said district may submit a petition in writing addressed to said board of sewer commissioners requesting that certain real estate, accurately described therein, located in said town of Leicester and abutting on said district and not otherwise served by a suitable means of sewerage disposal be included within the limits thereof. The petition shall be signed by the owners of such real estate, or a majority thereof, and within 30 days of receipt thereof the sewer commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall within ten days file with the town clerk of said town and with the state secretary an attested copy of said petition and vote; and thereupon said real estate shall become and be part of the district and shall be holden under this act in the same manner and to the same extent as the real estate described in section 1. Notwithstanding the foregoing, the board of sewer commissioners shall have no obligation to call a meeting, unless the petitioner first demonstrates to the board of sewer commissioners that the real estate to be annexed can be supplied by the district in an ordinary and reasonable manner without adverse impact on the district's existing sewerage system, and that sufficient capacity, allotted to the district, exists at the waste water treatment plant to supply the real estate. Petitioners seeking entry into the district shall bear all costs associated with the annexation, including but not limited to permit and connection fees, engineering and legal costs, installation of pipes and other equipment, and alterations to the existing distribution system necessitated by the annexation, including increases in the capacity of the district's inceptor and lateral sewers which may be necessitated by the entry. The applicant shall also comply with all rules and regulations governing annexations as may be promulgated by the board of sewer commissioners, from time to time.

SECTION 18. The provisions of chapters 41, 44, and 83 of the General Laws shall, so far as apt, apply to the district.

SECTION 19. This act shall take effect upon its passage.

Approved February 20, 1998.

Chapter 34. AN ACT RELATIVE TO THE DISPLAY OF FOREIGN FLAGS.

Be it enacted, etc., as follows:

Section 8 of chapter 264 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "commonwealth", in line 6, the following words:- , or when a diplomatic representative of a foreign country is a guest at said public building and.

Approved February 26, 1998.

Chapter 35. AN ACT ESTABLISHING A CERTAIN BETTERMENT FUND IN THE TOWN OF FALMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Falmouth is hereby authorized to establish a fund, which shall be kept separate and apart from all other monies of said town by the town treasurer and in which shall be deposited all road and sidewalk betterment payments received by said town. Said town treasurer may invest such funds in the manner prescribed in sections 54 and 55 of said chapter 44. Any interest earned thereon shall be credited to and become part of said fund. The principal and income therefrom shall be available for expenditure by the board of selectmen without further appropriation for the acceptance and improvement of private ways and the improvements shall be done in accordance with the provisions of chapter 80 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved February 26, 1998.

Chapter 36. AN ACT RELATIVE TO THE HEALTH INSURANCE OF CERTAIN RETIRED EMPLOYEES OF THE TOWN OF PLYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, any individual who retired from the service of the town of Plymouth prior to the effective date of this act and is enrolled in a health benefit plan offered by said town as of the effective date of this act, their spouses and dependents shall be entitled to continue to receive the same percentage of premium contribution provided by said town as on the date of the individual's retirement for so long as the retiree remains continuously enrolled in said health benefit plan, notwithstanding any alteration in health plan premiums by said town.

SECTION 2. This act shall take effect upon its passage.

Approved February 26, 1998.

Chapter 37. AN ACT PROVIDING FOR INCREASED ALLOWANCES OF FORMER EMPLOYEES OF THE TOWN OF METHUEN RETIRED IN THE NONCONTRIBUTORY RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. The town of Methuen is hereby authorized to increase the allowance of former employees retired under the noncontributory retirement laws for accidental disability, by a two-thirds vote of the city council and with approval of the mayor. Said increase in the retirement allowance of any such former employee may be increased to an amount not exceeding one-half the rate of regular compensation payable to employees of said town holding similar positions at the time of increasing such allowance, in the same grade or classification occupied by such former employee at the time of his retirement.

SECTION 2. The town of Methuen is hereby authorized to increase the allowance of former employees retired under the noncontributory retirement laws on account of superannuation after having served said town for a period of not less than 25 years, by a two-thirds vote of the city council and with approval of the mayor. Said increase in the retirement allowance of any such former employee may be increased to an amount not exceeding one-half the rate of regular compensation payable to employees of said town holding similar positions at the time of increasing such allowance, in the same grade or classification occupied by such former employee at the time of his retirement.

SECTION 3. The town of Methuen is hereby authorized to increase the allowance of former employees retired under the noncontributory retirement laws for ordinary disability after having served such town for a period of not less than 25 years, by a two-thirds vote of the city council and with approval of the mayor. Said increase in the retirement allowance of any such former employee may be increased to an amount not exceeding one-half the rate of regular compensation payable to employees of said town holding similar positions at the time of increasing such allowance, in the same grade or classification occupied by such former employee at the time of his retirement.

SECTION 4. If the classification under which any former employee described in section 1, 2 or 3 has been abolished since his retirement, the town of Methuen, by a two-thirds vote of the city council and with the approval of the mayor, may increase the retirement allowance of such employee to an amount as nearly equal as possible to the increases which have been made and which shall be made in the retirement allowance of employees who are retired in the same grade as such former employee, regardless of classification.

SECTION 5. This act shall take effect upon its passage.

Approved March 5, 1998.

Chapter 38. AN ACT DIRECTING THE STATE-BOSTON RETIREMENT BOARD TO RETIRE JOHN STEINER, A FIREFIGHTER OF THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, and in order to promote the public good, the State-Boston retirement board is hereby authorized and directed to retire John Steiner, a firefighter of the city of Boston, who as a result of serious injuries sustained while in the performance of his duties on December 25, 1995 is totally and permanently incapacitated from further service as a firefighter. The annual amount of pension payable to John Steiner under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement.

Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation.

Upon the retirement of said John Steiner, the retirement board of said city shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said city.

SECTION 2. The provisions of section 100 of chapter 41 of the General Laws shall continue to apply to John Steiner relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

SECTION 3. Upon the death of John Steiner, if his wife at the time of the accident, survives him, and as long as she remains unmarried, the city of Boston shall pay to his wife an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death, and \$312 for each child of John Steiner for such time as such child is either under 18 years of age or totally physically or mentally incapacitated from working. If the spouse of said John Steiner remarries, said city shall pay to his wife at the time of his accident, in lieu of the aforesaid annuity, an annual annuity of \$520 for each child of said John Steiner for such time as such child is residing with her and is either under 18 years of age on January first of the year in question or totally or mentally incapacitated from working.

Approved March 5, 1998.

Chapter 39. AN ACT PROVIDING A PENSION ADJUSTMENT TO PATRICIA PERRY, WIDOW OF BILLY M. PERRY OF THE METHUEN POLICE DEPARTMENT.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 9 of chapter 32 of the General Laws, the accidental death benefit payable to Patricia Perry, widow of Billy M.

Chap. 39

Perry, by the Methuen retirement board shall be set at an annual amount of \$26,979.84, retroactive to the date of January 21, 1996. The remaining provisions of said section 9 of said chapter 32, excepting as otherwise specifically stated herein, shall remain in full force and effect.

SECTION 2. This act shall take effect upon its passage.

Approved March 6, 1998.

Chapter 40. AN ACT RELATIVE TO REDUCTION IN RANK FOR MEMBERS OF THE FIRE DEPARTMENT OF THE CITY OF BROCKTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 33 of chapter 31 of the General Laws or the first sentence of section 39 of said chapter 31 or any other general or special law or rule to the contrary, if a permanent employee of the fire department of the city of Brockton serving in any position in a title above the lowest title on such department is to be separated from such position because of lack of money or the abolition of such position, each such employee shall be separated from his position according to such employee's seniority in title based on such employee's length of service in such title after permanent promotion in the department and shall be reinstated to such position held by him according to such seniority; provided, however, that this act shall apply only to reductions in force resulting in demotions from titles above the lowest title on such department to the next lower title or titles in succession in such department and shall not affect the seniority of any employee in service for any other purpose, including but not limited to, the separation of any permanent employee from service on such department.

SECTION 2. This act shall take effect upon its passage.

Approved March 6, 1998.

Chapter 41. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO CONVEY A CERTAIN PARCEL OF WATERSHED PROTECTION LAND.

Be it enacted, etc., as follows:

SECTION 1. The city of New Bedford, acting by and through its water board, is hereby authorized to convey a certain parcel of watershed protection land, presently under the care and control of the water board of said city to Barry and Patricia White of the town of Lakeville. Said parcel is shown as Plot 1 on a plan entitled "Plan of Land in Lakeville Prepared for Barry and Patricia White" dated August 13, 1996 drawn by Senna Fitzgerald Gilbert Assoc. which is on file in the office of the city clerk.

Chap. 41

SECTION 2. In consideration of the conveyance authorized in section 1, Barry and Patricia White shall convey a certain parcel of land to the city of New Bedford to be used for watershed protection purposes in the care, custody and control of the water board. Said parcel is shown as Plot 2-1 on the plan described in section 1.

Approved March 6, 1998.

Chapter 42. AN ACT AUTHORIZING THE CITY OF HOLYOKE TO TRANSFER A CERTAIN PARCEL OF PARK LAND.

Be it enacted, etc., as follows:

The parks and recreation commission of the city of Holyoke is hereby authorized to transfer care, custody and control of a certain parcel of park land to the city council of said city to allow said city council to sell said parcel to Reliance Electric Service Co., Inc. to be used for commercial purposes. Said parcel is bounded and described as follows:-

Beginning at a point on the Northwesterly side of South Canal Street, two hundred ninety-one and ninety-nine hundredths (291.99) feet Northeasterly of the intersection of the Northwesterly side of South Canal Street with the Northeasterly side of Jackson Street; thence running:

NORTHEASTERLY along the Northwesterly side of South Canal Street a distance of thirty (30) feet to land now or formerly owned by Cayuga East, Inc.; thence

NORTHWESTERLY along land now or formerly owned by Cayuga East, Inc., a distance of one hundred and twenty-six (126) feet to the centerline of an alleyway or common passageway, which passageway is sixteen (16) feet in width; thence

SOUTHWESTERLY on said centerline of said passageway and parallel with South Canal Street a distance of thirty (30) feet; thence

SOUTHEASTERLY parallel with Jackson Street a distance of one hundred and twenty-six (126) feet to the point of beginning.

Approved March 6, 1998.

Chapter 43. AN ACT AUTHORIZING THE TOWN OF NEW BRAINTREE TO CONVEY CERTAIN PROPERTY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 30B of the General Laws, the town of New Braintree, acting by and through its board of selectmen, is hereby authorized to convey the 1939 portion of the Old Grade School Building located in said town

Chap. 43

and the land on which it stands, as shown on a plan of land entitled Assessors Map #1, Lot #19, to the New Braintree Historical Society for the purpose of historical preservation. Said conveyance shall be on such terms and conditions as said board may determine.

SECTION 2. If the property described in section 1 is not used for the purpose described in said section 1, or if the use for this purpose ceases at any time, the property shall revert to the town of New Braintree.

SECTION 3. This act shall take effect upon its passage.

Approved March 6, 1998.

Chapter 44. AN ACT AUTHORIZING THE TOWN MANAGER IN THE TOWN OF ARLINGTON TO LEASE CERTAIN PARK LAND AND OTHER OPEN SPACES TO WIRELESS COMMUNICATIONS COMPANIES FOR THE ERECTION OF WIRELESS ANTENNAS OR OTHER RELATED APPURTENANT STRUCTURES.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, including without limitation section 3 of chapter 40 of the General Laws, the town manager of the town of Arlington, on behalf of the town, may lease for a period not to exceed 20 years, the hereinafter described parcels of land or portions of buildings, including any appurtenant air rights, to wireless communications companies for the erection of wireless antennas or related structures, after compliance with chapter 30B of the General Laws, including that described portion of Hurd Field, presently dedicated to park and playground use, said properties to include the following:

(1) Arlington High School, main building roof and cupola and a specific area within the building.

(2) Hurd Field, said area to be identified and approved by the park and recreation commission.

(3) Central Fire Station, located at 411 Massachusetts Avenue, hose tower, roof, and specific area within the building.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, including without limitation, the provisions of section 3 of chapter 40 of the General Laws, all proceeds for lease or leases of property leased by the town of Arlington to telecommunication companies for the erection of wireless antennas or related structures shall be devoted to the care, maintenance, upkeep or enhancement of park, playgrounds, or other open space in town. The treasurer of the town of Arlington is hereby authorized to keep said proceeds in a separate account and may invest and reinvest same with any interest from same to be returned to said account. Any annual or special town meeting of the town of Arlington may appropriate said funds for such previously described use, but only for such use, unless by two-thirds vote of said town meeting, another use is voted. The town treasurer

Chap. 44

shall make an annual accounting of the funds in said account at each subsequent annual town meeting. Any rental proceeds in excess of \$250,000 in any given fiscal year will be deposited into the available funds of the town and be available for any purpose as voted by the town. The authority for the fund established under this article will expire ten years from its establishment and any future rental proceeds will be deposited into the available funds of the town and will be available for any purpose voted by the town.

SECTION 3. This act shall take effect upon its passage.

Approved March 6, 1998.

Chapter 45. AN ACT AUTHORIZING THE TOWN OF WASHINGTON TO TRANSFER CERTAIN FUNDS.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Washington is hereby authorized to transfer the sum of \$30,000 from its state employment compensation fund to the general fund of said town.

Approved March 6, 1998.

Chapter 46. AN ACT AUTHORIZING THE CITY OF FITCHBURG TO CONVEY CERTAIN PARK LAND TO THE COMMONWEALTH AND RATIFYING THE SALE OF PARK LAND PREVIOUSLY SOLD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the transfer of certain land from the city of Fitchburg to the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The city of Fitchburg is hereby authorized to use a portion of the property described herein for the widening of North street and to sell and convey the remaining portion of said two parcels of park land or playground land with the buildings thereon, if any, located in said city to the commonwealth, for the use by Fitchburg state college for the general purposes of said college, the consideration for such sale and conveyance shall be \$21,300 pending approval by the division of capital planning and operations.

Chap. 46

Parcel 1. Being the same premises described by a deed from Raymond J. Belanger to George Cormier recorded in the Worcester northern district registry of deeds at Book 1170, Page 435, and acquired by said city of Fitchburg by tax taking, recorded in said registry at Book 1221, Page 114.

Parcel 2. Being the same premises described as parcel #5 in a deed from First Safety Fund National Bank and G. Gardner Cook to Charles K. Erban recorded in the Worcester northern district registry of deeds at Book 1054, Page 548 and acquired by said city of Fitchburg by the taking recorded in said registry at Book 1082, Page 212-214. Excepting however from the above described Parcel 2, and reserving to said city a portion of said parcel, 53 square feet in area on the southeastern corner of said parcel, reserved by said city for the widening of the North and Green Street intersection to be shown on a plan to be recorded upon conveyance of the premises.

SECTION 2. The sale of two certain parcels of real estate, described below, formerly used for park and playground purposes by the city of Fitchburg and sold to E. Thomas Donnelly of said city of Fitchburg for other than park or playground purposes, by deeds dated April 24, 1990 and recorded in the Worcester northern district registry of deeds at Book 1957, Page 37 and Book 1957, Page 40, respectively, is hereby ratified and confirmed.

Approved March 6, 1998.

Chapter 47. AN ACT AUTHORIZING THE BOARD OF SELECTMEN OF THE TOWN OF AUBURN TO CALL A SPECIAL ELECTION FOR SUBMISSION OF A NON-BINDING ADVISORY QUESTION.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Auburn is hereby authorized to call a special election for the purpose of submitting to the voters of said town a non-binding public opinion advisory question relative to a school building project.

SECTION 2. This act shall take effect upon its passage.

Approved March 12, 1998.

Chapter 48. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF TAUNTON AS THE PFC DAVID A. FRANCIS, USMC MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

The railroad bridge on the northerly end of Stevens street in the city of Taunton shall be designated and known as the PFC David A. Francis, USMC Memorial Bridge, in memory

Chap. 48

of David A. Francis who died in action serving his country in Vietnam. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

Approved March 12, 1998.

Chapter 49. AN ACT RELATIVE TO SERVICE IN THE RESERVES BY PUBLIC EMPLOYEES.

Be it enacted, etc., as follows:

Section 59 of chapter 33 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the words "seventeen days" and inserting in place thereof the following words:- 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year.

Approved March 12, 1998.

Chapter 50. AN ACT FURTHER DEFINING DRUG PARAPHERNALIA.

Be it enacted, etc., as follows:

Section 1 of chapter 94C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the definition of "Drug paraphernalia" and inserting in place thereof the following definition:-

"Drug paraphernalia", all equipment, products, devices and materials of any kind which are primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes, but is not limited to:

(1) kits used, primarily intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) kits used, primarily intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(3) isomerization devices used, primarily intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) testing equipment used, primarily intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

Chap. 50

(5) scales and balances used, primarily intended for use or designed for use in weighing or measuring controlled substances;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, primarily intended for use or designed for use in cutting controlled substances;

(7) separation gins and sifters used, primarily intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana;

(8) blenders, bowls, containers, spoons and mixing devices used, primarily intended for use or designed for use in compounding controlled substances;

(9) capsules, balloons, envelopes and other containers used, primarily intended for use or designed for use in packaging small quantities of controlled substances;

(10) containers and other objects used, primarily intended for use or designed for use in storing or concealing controlled substances;

(11) hypodermic syringes, needles and other objects used, primarily intended for use or designed for use in parenterally injected controlled substances into the human body;

(12) objects used, primarily intended for use or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, which pipes may or may not have screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips; meaning objects used to hold burning material, such as a marihuana cigarette that has become too small or too short to be held in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chillums;

(l) bongs;

(m) ice pipes or chillers;

(n) wired cigarette papers;

(o) cocaine freebase kits.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) the proximity of the object, in time and space, to a direct violation of this chapter;

(b) the proximity of the object to controlled substances;

(c) the existence of any residue of controlled substances on the object;

(d) instructions, oral or written, provided with the object concerning its use;

Chap. 50

- (e) descriptive materials accompanying the object which explain or depict its use;
- (f) national and local advertising concerning its use;
- (g) the manner in which the object is displayed for sale;
- (h) whether the owner, or anyone in control of the object, is a supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (i) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
- (j) the existence and scope of legitimate uses for the object in the community;
- (k) expert testimony concerning its use.

For purposes of this definition, the phrase "primarily intended for use" shall mean the likely use which may be ascribed to an item by a reasonable person. For purposes of this definition, the phrase "designed for use" shall mean the use a reasonable person would ascribe to an item based on the design and features of said item.

Approved March 12, 1998.

Chapter 51. AN ACT RELATIVE TO CERTAIN RAILROAD CROSSINGS IN THE CITY OF CAMBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 160 of the General Laws or any other general or special law, rule or regulation to the contrary, a railroad corporation, including the Massachusetts Bay Transportation Authority shall not permit a locomotive engine passing on its railroad over Binney street, Cambridge street and Gore street in the city of Cambridge to sound a whistle at any of said grade crossings which has the following safety features: flashing lights in each direction which are caused to be automatically activated by an approaching train; two gates, one on each side of the crossing, both of which are caused to be automatically lowered by an approaching train and each of which extends across approximately half the width of the lanes of traffic at said crossing so that the entire width of the lanes of traffic at said crossing is blocked when said gates are lowered; a bell that is caused to be automatically activated by an approaching train; overhead street lights; signs posted before the grade crossing in each direction warning motorists and pedestrians of the crossing ahead; posted speed limits for traffic of not more than 40 miles per hour, and not more than two lanes of vehicular traffic in each direction at the grade crossing. Notwithstanding the provisions of this section, the whistle of a locomotive shall be sounded in the event of an emergency.

SECTION 2. The department of telecommunications and energy shall require that whistle markers on the railroad right-of-way on the approach to each grade crossing referred to in section 1 shall be replaced with bell markers within 90 days of the effective date of this act.

Chap. 51

SECTION 3. The department of telecommunications and energy shall notify the Massachusetts Bay Transportation Authority and all other railroad corporations operating locomotive engines over the grade crossing referred to in section 1 in the city of Cambridge of the provisions of this act within 30 days after the effective date.

Approved March 12, 1998.

Chapter 52. AN ACT RELATIVE TO THE ISSUANCE OF A CERTAIN BIRTH RECORD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the commissioner of public health shall issue to Norman Richard Greenfield, who was born in the city of Boston on April 19, 1942, a birth certificate bearing the names of his natural parents.

Approved March 13, 1998.

Chapter 53. AN ACT RELATIVE TO CERTAIN ORDINANCES IN THE CITY OF LYNN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 21D of chapter 40 of the General Laws or any other general or special law to the contrary, in the city of Lynn an employee of the parking department, health department or police department who takes cognizance of a violation of said city's noise ordinance or ordinance relative to the removal of snow and ice shall give the offender a written notice to appear before the parking or health department of said city, whichever department is appropriate. Disposition of the matter shall be non-criminal and shall otherwise comply with all other provisions of said section 21D.

SECTION 2. The city of Lynn is hereby authorized to adopt any additional ordinances necessary to carry out the provisions of section 1.

SECTION 3. This act shall take effect upon its passage.

Approved March 13, 1998.

Chapter 54. AN ACT FURTHER REGULATING LICENSES AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 138 of the General Laws is hereby amended by inserting after section 64 the following two sections:-

Section 64A. In any hearing by the licensing authorities pursuant to the first paragraph of section 64, where the licensing authorities find that a licensee pursuant to section 12 has served or sold alcohol or alcoholic beverages either to a person under 21 years of age in violation of section 64 or to an intoxicated person in violation of section 69 within the 24 months immediately preceding the date of the alleged violation which is the subject of the hearing, such licensing authorities may, in addition to imposing any other sanctions, require as a condition precedent to any modification, reinstatement or renewal of such license thereafter that the licensee provide a certificate of insurance for liquor liability providing security for the liability of the licensee to a limit of not less than \$100,000 to any one person and \$200,000 to all persons. Said limits may be increased at the discretion of the licensing authorities.

Section 64B. In any case in which a liquor liability insurance policy has been required as a condition precedent to modification, reinstatement or renewal of a license as provided in section 64A or section 67, a licensee shall disclose to the insurer that such policy is required by the licensing authorities pursuant to said section 64A or 67, shall provide to the liquor liability insurer the mailing address of the licensing authorities and shall direct said insurer to include said authorities as a recipient of any notice which the insurer is required to issue to the licensee pursuant to chapter 175. In any case in which the insurer notifies the licensee and the licensing authorities that it intends to terminate the contract upon expiration of the requisite notice period, the licensee shall provide proof of reinstatement or new insurance to the licensing authorities within such period. If the licensee fails to provide such proof prior to receipt by the licensing authorities of a notice of cancellation from the insurer, the licensing authorities shall suspend such license until proof of insurance is delivered, or revoke such license, at their discretion.

SECTION 2. Section 67 of said chapter 138, as appearing in the 1996 Official Edition, is hereby amended by inserting after the fifth paragraph the following paragraph:-

In any case in which the commission finds during said hearing that the licensee pursuant to section 12 has served or sold alcohol or alcoholic beverages to either a person under 21 years of age in violation of section 64 or to an intoxicated person in violation of section 69 within the 24 months immediately preceding the date of the alleged violation which is the subject of the hearing, said commission may, in addition to any other sanctions or conditions it may impose, require as a condition precedent to any modification, reinstatement or renewal of said license thereafter that the licensee provide a certificate of insurance for liquor liability of the licensee to a limit of not less than \$100,000 to any one person and \$200,000 to all persons. In any other case in which the commission may act pursuant to this section, it may increase, but not decrease, the limits of liquor liability insurance, if any, required by the local licensing authorities as a condition precedent to the modification, reinstatement or renewal of a license.

SECTION 3. Chapter 175 of the General Laws is hereby amended by striking out section 112B, as so appearing, and inserting in place thereof the following section:-

Chap. 54

Section 112B. Effective 60 days after the inception of a liquor liability insurance contract, no notice of intention to terminate the contract or, if the contract is a renewal, no notice of intention not to renew the contract shall be effective unless the insurer at least 60 days prior to the effective date of cancellation or the end of the contract period, as the case may be, mails or delivers to the insured, and to the licensing authorities or the alcoholic beverages control commission pursuant to section 64A or 67 of chapter 138, at the address shown on the policy such notice of intention not to renew, except where cancellation is for nonpayment of premium, or where the insured has lost his license. If cancellation is for nonpayment of premium pertaining to contracts required pursuant to section 64A, 64B or 67 of said chapter 138, the insurer shall not cancel such liquor liability insurance except upon 30 days prior written notice to the licensee and the local licensing authorities.

Approved March 13, 1998.

Chapter 55. AN ACT RELATIVE TO COLLECTIVE BARGAINING FOR EMPLOYEES OF CERTAIN SHERIFFS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the collective bargaining for employees of certain sheriffs, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 567 of chapter 151 of the acts of 1996 is hereby amended by striking out subsection (o) and inserting in place thereof the following subsection:-

(o) An employee of the sheriff of Franklin county shall be an "employee" or "public employee" as defined in section 1 of chapter 150E of the General Laws and the sheriff of such county shall be an "employer" or "public employer" as defined in said section 1 of said chapter 150E. A collective bargaining agreement negotiated by said sheriff shall be submitted to the governor in conformity with the provisions of subsection (c) of section 7 of said chapter 150E.

SECTION 2. Chapter 48 of the acts of 1997 is hereby amended by inserting after section 13 the following section:-

Section 13A. An employee of a sheriff of an abolished county shall be an "employee" or "public employee" as defined in section 1 of chapter 150E of the General Laws and the sheriff of such county shall be an "employer" or "public employer" as defined in said section 1 of said chapter 150E. A collective bargaining agreement negotiated by said sheriff shall be submitted to the governor in conformity with the provisions of subsection (c) of section 7 of said chapter 150E.

Approved March 19, 1998.

Chapter 56. AN ACT AUTHORIZING THE CONVEYANCE OF A CERTAIN PARCEL OF LAND IN THE TOWN OF NORWELL.

Be it enacted, etc., as follows:

SECTION 1. The board of water commissioners of the town of Norwell are hereby authorized to convey a certain parcel of land acquired for water supply purposes to said town to be used for the construction of a fire station. Said parcel is a portion of Block 30, Lot 82 on the Norwell assessor's map.

SECTION 2. This act shall take effect upon its passage.

Approved March 20, 1998.

Chapter 57. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO LEASE A CERTAIN BUILDING.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 30B of the General Laws or any other general or special law to the contrary, the town of North Reading, acting by and through its board of selectmen, is hereby authorized to lease the Weeks Building/Damon Tavern, hereinafter called the Damon Tavern, for a term not to exceed 25 years to The North Reading Historical and Antiquarian Society Inc. for the preservation and protection of the historical resources of said town.

SECTION 2. Any funds derived from the use, operation, or subleasing of any portion of the Damon Tavern by said society shall be deposited into a special account known as the Damon Tavern Revolving Trust Fund which shall be kept separate and apart from all other accounts of the town. The town may appropriate in any year monies from said Fund for the maintenance and upkeep of said Damon Tavern and grounds. Said society shall select an independent certified public accountant to perform an annual audit of the society's books and accounts and to make a report of such accountant's findings and opinions to the board of selectmen of said town.

SECTION 3. If at any time the Damon Tavern ceases to be used for the purposes specified in section 1, the lease shall terminate and the control of the property shall revert to the town.

SECTION 4. The consideration for any sublease of any portion of the Damon Tavern shall be the full and fair market value of said leasehold interest and any such sublease shall require the approval of the board of selectmen of the town of North Reading.

Approved March 20, 1998.

Chapter 58. AN ACT AUTHORIZING THE TOWN OF PLYMPTON TO TRANSFER CONTROL OF CERTAIN FOREST LAND TO THE BOARD OF SELECTMEN.

Be it enacted, etc., as follows:

The town of Plympton is hereby authorized to transfer the care, custody and control of a certain parcel of forest land from the town forest committee to the board of selectmen of said town to be used for general municipal purposes. Said parcel is shown as Lot No. 2-17 on Assessors' Map No. C3.

Approved March 20, 1998.

Chapter 59. AN ACT PROVIDING FOR SPECIAL MUNICIPAL FUNDS TO CELEBRATE THE YEARS TWO THOUSAND AND TWO THOUSAND AND ONE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the appropriation of municipal funds to celebrate the millennium, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

For the celebration of the year two thousand or the year two thousand and one or any centennial celebration any city or town may appropriate money annually during the five years preceding such year. Such city or town is hereby authorized to establish in its treasury a special fund in which shall be deposited such sums as may be appropriated by it under the provisions of this act, and any and all sums received by way of income from the sale of commemorative items or from admission charges for commemorative ceremonies or events. Any and all such sums received by the treasurer shall be kept separate from any other moneys, funds or property of such city or town, and the principal and interest thereof may, from time to time upon the authorization of the mayor or city manager, as the case may be, the board of selectmen, or the majority of any special committee established to plan such celebration, be expended for the purposes of said celebration in the year of such celebration and in the year preceding or succeeding same. There shall be an accounting to the treasurer for the expenditure of all funds. Any surplus remaining in said special fund after such celebration is concluded shall be transferred by said treasurer into the treasury of such city or town.

Approved March 25, 1998.

Chapter 60 AN ACT ESTABLISHING A DEPARTMENT OF FINANCE AND BUDGET IN THE TOWN OF GROVELAND.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the town of Groveland a department of finance and budget. Said department shall be managed by a finance director who shall be appointed by the board of selectmen for a term of three years.

SECTION 2. The director of the department of finance and budget shall have all the powers and duties presently vested in the offices of treasurer and collector. The office of town accountant shall become part of said department and the town accountant shall be under the supervision of said director.

SECTION 3. The finance director, as treasurer and budget officer shall be responsible for coordinating the fiscal management practices of the treasurer's department, collector of taxes, town accountant's department, and administrator of budgeting including financial reporting, accountability and control, financial and programmatic implications on current and future policies to all town departments and board of selectmen.

The powers and duties of the finance director shall include, but not be limited to, the following:-

(1) To coordinate with all town departments and manage the collection of all budget and financial information, including the forecasting of revenues for the forthcoming fiscal year in order to prepare an annual budget for the annual town meeting.

(2) To set policies and procedures for the collection of all revenues due and owing to the town of Groveland as a result of tax levies, and the issuance of licenses and permits excepting therefrom revenues collected by the municipal light plant.

(3) To write grant proposals appropriate to the needs of the town, and to insure compliance with the terms of each grant.

(4) To review and oversee, on a yearly basis, the various town trust funds, and to insure that funds are prudently invested. Also, when any such trust fund fails due to the extinction of the purpose for which said fund was created, the department of budget and finance shall with the advice and consent of the board of selectmen seek appropriate relief in a court of competent jurisdiction from the duties of investment and distribution imposed by the trust fund instrument.

(5) Disburse, as town government operations may require, all funds and sign all checks pursuant to warrants signed by the board of selectmen and town accountant, to insure the efficient operation of government.

(6) The finance director shall be the chief procurement officer for the town of Groveland.

(7) Report to the board of selectmen and finance committee concerning all financial matters affecting town government.

(8) Coordinate with the department of revenue pertaining to all matters on their municipal calendar.

Chap. 60

(9) Coordinate and manage all financial information received from the board of assessors to forecast future financial growth and anticipated revenues, and advise the board of selectmen, finance committee, and town meeting accordingly.

(10) Create written policies and procedures, and be responsible for the collection of all monies received by various town departments as allowed by law and deposit same in bank accounts.

SECTION 4. Pursuant to all state, federal and municipal statutes, laws, regulations and by-laws, the department of finance and budget shall make detailed estimates of all money necessary to maintain the proper operation of government.

SECTION 5. The department of finance and budget shall report to the board of selectmen.

SECTION 6. Upon the establishment of the department of finance and budget, the persons holding the office of treasurer and tax collector shall become assistant collector and assistant treasurer respectively for the remainder of their term. Thereafter, they shall serve for a period determined by the director, and at a salary to be set by the board of selectmen. The assistant treasurer and assistant tax collector shall report directly to the director of finance and budget who shall assign duties to them as he deems necessary. The director may consolidate said positions.

SECTION 7. The board of selectmen may delegate or assign administrative and personnel duties to the director of the department of finance and budget.

SECTION 8. Within 30 days of the effective date of this act, the board of selectmen shall appoint a search committee to assist said board in the employing of a director. Said committee shall consist of five members to be appointed as follows: one representative from the board of assessors; one representative from the town government in general exclusive of the board of selectmen; one representative from the finance committee; one representative from the finance director/executive secretary task force; and one resident of the town of Groveland who is not a present or past employee or appointed or elected official of said town.

SECTION 9. The search committee shall:

(1) advertise the position in appropriate media outlets and trade journals, as required by law;

(2) receive resumes and select candidates therefrom for interviews; and

(3) take any other action and perform any other duties as directed by the board of selectmen not inconsistent with section 10.

SECTION 10. The personnel board shall develop a job description, and make salary recommendations to the board of selectmen.

SECTION 11. The board of selectmen shall enter into a formal written contract with the director detailing responsibilities, goals and objectives for performance evaluation criteria, salary, fringe benefits and term of contract.

Approved March 25, 1998.

Chapter 61. AN ACT AUTHORIZING THE APPOINTMENT OF CERTAIN INDIVIDUALS AS FIREFIGHTERS IN THE TOWN OF WEYMOUTH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator shall place on the current civil service eligible list for firefighter in the town of Weymouth the names of Richard Burdett, Peter Woodbury and Robert DeVincent, each of whom is a current federal employee of the United States Department of Defense at the Weymouth Naval Air Force Base, as though said individuals had, in fact, resided in said town of Weymouth for the full year before the date of the most recent civil service firefighter examination; provided, however, that the names of said individuals shall be so placed on the current eligible list according to the grade they received on said examination and in accordance with any other preference to which they may be entitled.

SECTION 2. This act shall take effect upon its passage.

Approved March 25, 1998.

Chapter 62. AN ACT FURTHER REGULATING THE PRACTICE OF PUBLIC ACCOUNTANCY.

Be it enacted, etc., as follows:

SECTION 1. Section 87A½ of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

The educational requirement for a certificate shall be at least a bachelor's degree or its equivalent from a college or university approved by the board, including an accounting concentration or its equivalent as determined by the board. The educational requirement shall consist of a minimum of 150 semester hours of course work or its equivalent earned as part of, either or both a bachelor's degree or master's degree program which includes courses in accounting education, business administration and general education. An applicant who has sat for the examination for certified public accountant prior to July 1, 2002 shall qualify for a certificate under the educational requirements in effect prior to said date. The educational requirement for a certificate as a certified public accountant shall be met not later than 120 days after an applicant sits for the examination.

SECTION 2. Said section 87A½ of said chapter 112, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

The experience requirement for a certificate shall be determined by the board in its discretion.

Chap. 62

SECTION 3. This act shall take effect on July 1, 2002.

Approved March 27, 1998.

Chapter 63. AN ACT RELATIVE TO THE FINANCING OF A GOLF COURSE BY THE TOWN OF SOUTH HADLEY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 44 of the General Laws to the contrary, the maturities of bonds issued by the town of South Hadley for design, development, construction, and equipping of a municipal golf course, including a clubhouse and related structures, either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds shall be not later than one year from the estimated date of commencement of regular operation of the golf course, as determined by the town treasurer, and the last payment of principal shall be not later than 30 years from the date of the bonds. Project costs to be financed by the issue of the bonds may include interest incurred on the bonds and any bond anticipation notes for a period of up to two years after the date of the original borrowing or, if later, one year after the estimated date of commencement for regular operation of the golf course, as determined by the town treasurer. The town may create and maintain, from bond proceeds or other sources of funds, such reserve, replacement, maintenance and improvement funds in connection with the golf course as it may deem necessary and prudent; provided, however, that the aggregate of such funds provided from bond proceeds for the project shall not exceed 10 per cent of the principal amount of the bonds issued for the project. Any net earnings derived from the investment of the proceeds of the bonds may be expended by the town treasurer to pay interest on the bonds but otherwise shall be used only for construction, equipping, operation or maintenance of the golf course. Except as otherwise provided in this act, indebtedness incurred by the town for the golf course project shall be subject to the applicable provisions of said chapter 44.

SECTION 2. The town of South Hadley shall establish an enterprise fund for the golf course facility and its operation, which shall be subject to the provisions of section 53F½ of chapter 44 of the General Laws; provided, however, that any available surplus in said enterprise fund may be appropriated by the town for any capital project for which borrowing may be authorized under section 7 or 8 of said chapter 44.

SECTION 3. The vote of the town passed under Article 1 of the warrant for the special town meeting held on Tuesday, October 21, 1997 authorizing bonds for the golf course project is hereby ratified, validated, and confirmed. Proceeds of the bonds issued in

Chap. 63

accordance with section 1 of this act may be used to refund any bond anticipation notes previously issued for the design, environmental permitting and other preliminary expense relating to the golf course project.

SECTION 4. This act shall take effect upon its passage.

Approved March 27, 1998.

Chapter 64. AN ACT TO IMPROVE THE MASSACHUSETTS CHILD SUPPORT ENFORCEMENT PROGRAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for enhanced enforcement of child support obligations, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 172C the following section:-

Section 172D. Notwithstanding any provision of section 172 or of any other provision of law, the following information shall be available to the IV-D agency as set forth in chapter 119A, upon request, for purposes connected with establishing paternity, or establishing, modifying or enforcing child support obligations pursuant to chapter 119A and Title IV, Part D of the Social Security Act: criminal offender record information, including, but not limited to, arrest, conviction, incarceration and rehabilitation information, and evaluative information pursuant to section 14 of chapter 119A; criminal offender record information obtained through any interstate system used by the commonwealth to locate an individual for purposes relating to motor vehicles or law enforcement as required by Title IV, Part D of the Social Security Act; youthful offender and adjudication of juvenile delinquency data; information contained in the warrant management system established pursuant to section 23A of chapter 276; and to further the protection of children and victims of domestic violence, data in the statewide domestic violence record keeping system maintained by the commissioner of probation. The IV-D agency shall not make, and shall prohibit, any dissemination of such information for any purpose other than as set forth herein.

SECTION 2. Section 15D of chapter 22 of the General Laws, as so appearing, is hereby amended by inserting after the word "commissioner", in line 22, the following words:- , including information which appears in child support enforcement files maintained by the IV-D agency as set forth in chapter 119A concerning dates and amounts of income received, employer, last known address and other information relevant to the investigation of fraud.

SECTION 3. Said section 15D of said chapter 22, as so appearing, is hereby further amended by striking out, in line 24, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

SECTION 4. Chapter 30A of the General Laws is hereby amended by inserting after section 13 the following section:-

Section 13A. Agencies and political subdivisions of the commonwealth, that issue a license under section 13 shall require an applicant for issuance or renewal of such license to provide a social security number as a condition of issuing or renewing such license and shall record such social security number in the applicant's record; provided, however, that the applicant may, on the face of the license, use a number other than his social security number as permitted under any other provision of law of the commonwealth; provided further, that the agency issuing the license shall provide information in its records, including the social security number of applicants, to the IV-D agency as set forth in chapter 119A, using the method and format required by said IV-D agency.

SECTION 5. Section 1 of chapter 32 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the definition of "Hospital district", the following definition:-

"IV-D agency", the state agency that has the responsibility for administering or supervising the administration of the provision of child support enforcement services pursuant to Title IV, Part D of the Social Security Act and chapter 119A of the General Laws.

SECTION 6. Section 10 of said chapter 32, as so appearing, is hereby amended by inserting after the word "in", in line 149, the following words:- section 11 or.

SECTION 7. Section 11 of said chapter 32, as so appearing, is hereby amended by inserting after the word "three", in line 6, the following words:- , to the provisions of this section,.

SECTION 8. Subdivision (1) of said section 11 of said chapter 32, as so appearing, is hereby amended by inserting after paragraph (b) the following paragraph:-

(c)(i) If a member is eligible to receive a return of accumulated total deductions and requests such return from the board on the prescribed form, prior to the return of such accumulated total deductions, the board shall provide to the IV-D agency the member's name, date of birth, address, and social security number. Within 15 days of receipt of such information the IV-D agency shall notify the board if such member owes child support arrears, provided, however, that if, due to unforeseen circumstances, the IV-D agency is unable to provide such notice within 15 days, said IV-D agency shall notify the board of said unforeseen circumstances and the anticipated date by which the IV-D agency will provide such notice. In the event the member owes child support arrears, upon receipt of a levy from the IV-D agency on the accumulated total deductions, the board shall withhold the child support arrears from the accumulated total deductions and, unless the IV-D agency releases the levy or the board receives notice from either the IV-D agency or the member that an appeal of the levy is pending, the board shall, within 60 days, disburse to the IV-D agency

the accumulated total deductions up to the amount of child support arrears. If the board receives such notice of an appeal, the board shall not disburse such accumulated total deductions until the board receives notice that the appeal has been resolved and in what manner the accumulated total deductions should be disposed.

Upon notice by the IV-D agency to the board that a lien has arisen under section 6 of chapter 119A against a member and if the member has terminated service, the board shall send to the member the prescribed form to request a return of accumulated total deductions. If the member fails to file the prescribed form with the board within 60 days, the board shall notify the IV-D agency of such failure and whether the board has received notice that the member has become a member of any other system. The IV-D agency may seek a court order for the submission of the prescribed form to request a return of accumulated total deductions. Upon request of the IV-D agency, the court shall order the member to sign and submit the prescribed form or shall appoint a special master to sign and submit such form in place of the member. Upon receipt of a levy from the IV-D agency on the accumulated total deductions, the board shall withhold any child support arrears owed by such member from the accumulated total deductions and, unless the IV-D agency releases the levy or the board receives notice from the IV-D agency or the member, that an appeal of the levy is pending, the board shall, within 60 days, disburse to the IV-D agency the accumulated total deductions up to the amount of child support arrears. If the board receives such notice of an appeal, the board shall not disburse such accumulated total deductions until the board receives notice that the appeal has been resolved and in what manner the accumulated total deductions should be disposed. Notwithstanding the provisions of any general or special law to the contrary, a disbursement of accumulated total deductions and a return of accumulated total deductions pursuant to the provisions of this subdivision shall have the same effect on the rights of the member as a return of accumulated total deductions pursuant to the provisions of this chapter.

SECTION 9. Said section 11 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "thereto", in line 46, the following words:- ; provided, however, that prior to the payment of such accumulated total deductions to said beneficiary or beneficiaries, the board shall provide to the IV-D agency the name, date of birth, address, and social security number of each beneficiary; and provided further, that within 15 days of receipt of such information the IV-D agency shall notify the board if such beneficiary owes child support arrears. If due to unforeseen circumstances the IV-D agency is unable to provide such notice within 15 days, said agency shall notify the board of the unforeseen circumstances and the anticipated date by which the IV-D agency shall provide such notice. If such beneficiary owes arrears, upon receipt of a levy from the IV-D agency, the board shall withhold any arrears owed by any such beneficiary and disburse the accumulated total deductions due that beneficiary, up to the amount of the arrearage, to the IV-D agency within 60 days.

SECTION 10. Section 19 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 38 and 39, the words "or a retirement allowance" and inserting in place

Chap. 64

thereof the following words:- , retirement allowance or return of accumulated total deductions.

SECTION 11. Said section 19 of said chapter 32, as so appearing, is hereby further amended by inserting after the word "seventy-three", in line 42, the following words:- , or received, entered or registered pursuant to chapter 209D,.

SECTION 12. Section 19A of said chapter 32, as so appearing, is hereby amended adding the following paragraph:-

Any member retired under this chapter may by assignment made in writing authorize the retirement board paying such pension or retirement allowance to withhold each month such amount as he may designate for the payment of a child support order, issued under chapter 208, 209, 209A, 209C or 273, or received, entered, or registered pursuant to chapter 209D, and the amount designated shall be transmitted and paid monthly by the treasurer or custodian of any system to the IV-D agency. Nothing in this section shall preclude the IV-D agency from executing an order to withhold income from a member's retirement allowance, pursuant to section 12 of chapter 119A.

SECTION 13. Said chapter 32 is hereby further amended by inserting after section 19B the following section:-

Section 19C. The annuity, retirement allowance, pension, return of accumulated total deductions or payment to any person pursuant to the provisions of this chapter or similar annuity, retirement allowance, pension, return of accumulated total deductions or payment to any person pursuant to the provisions of any general or special law shall be subject to any liens, attachments or income withholding orders issued in accordance with section 6 or 12 of chapter 119A to apply such payment to satisfy an obligation to provide child support.

Upon receipt of notice from the IV-D agency that any person receiving or entitled to receive an annuity, pension, retirement allowance, return of accumulated total deductions or payment pursuant to the provisions of this chapter or similar annuity, pension, retirement allowance, return of accumulated total deductions or payment pursuant to the provisions of any general or special law is subject to a lien under section 6 of chapter 119A, subject to an income withholding order pursuant to section 12 of 119A, or subject to any direct income withholding notice received, entered or registered pursuant to chapter 209D, the board shall comply with said lien, notice or order and shall continue to comply until the board receives notice from the IV-D agency that the lien, notice or order has terminated and all arrears have been paid.

Prior to making a payment to an eligible spouse or beneficiary the board shall provide to the IV-D agency the name, date of birth, address, and social security number of the eligible spouse or beneficiary; provided, however, that within 15 days of receipt of such information the IV-D agency shall notify the board if such eligible spouse or beneficiary owes child support arrears. If due to unforeseen circumstances the IV-D agency is unable to provide such notice within 15 days, said IV-D agency shall notify the board of such unforeseen circumstances and the anticipated date by which the IV-D agency will provide

such notice. Upon receipt of a notice from the IV-D agency that an eligible spouse or beneficiary is subject to a lien under section 6 of chapter 119A, subject to a withholding order pursuant to section 12 of chapter 119A, or subject to a direct income withholding notice received, entered or registered pursuant to chapter 209D, the board shall comply with said lien, order or notice and shall continue to comply until the board receives notice from the IV-D agency that the lien, order or notice has terminated and all arrears have been paid.

The retirement system and the members of the board of a retirement system which make a payment to the IV-D agency pursuant to the provisions of this chapter or chapter 119A shall be discharged from any obligation or liability to the member, eligible spouse, beneficiary or any other person arising from said payment notwithstanding the provisions of this chapter or any general or special law.

Information used to ascertain whether a member, a surviving spouse or any beneficiary is subject to a child support lien may only be used for the purpose of assisting the IV-D agency in collecting child support.

Notwithstanding the provisions of any general or special law to the contrary, proceedings pursuant to section 24 and the penalties established thereunder shall be the exclusive remedy relating to compliance on the part of the retirement board with the duties resulting from this section and restrictions on use of information described herein.

SECTION 14. Subdivision (5) of section 20 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:-

(1) Each board shall file the reports required by section 14 of chapter 119A which shall include the filing of a report on or before March 1 with the IV-D agency providing the name, address, date of birth, status and social security number of all members of the system as of December 31 of the previous year. The IV-D agency shall use such information solely for the purposes outlined in chapter 119A and the use of such information shall be subject to the limitations set forth in said chapter 119A.

SECTION 15. Chapter 46 of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. Each town clerk shall receive or obtain and record the following facts, as well as such additional information that may be required under federal statutes or contracts, regulations promulgated pursuant to section 4 of chapter 17, or, as the commissioner of public health may require, relative to births, marriage, acknowledgments and adjudications of paternity and deaths which occurred in the town and for certificates of marriage issued by the town.

In the record of births, date of birth, place of birth, name and sex of child; names, places of birth, and dates of birth of both parents; and residence and birth surname of the child's mother. In the record of birth of a child born to parents not married to each other, the name of and other facts relating to the father shall not be recorded except as provided in section 2 of chapter 209C where paternity has been acknowledged or adjudicated under the laws of the commonwealth or under the law of any other jurisdiction.

Chap. 64

In the record of marriages, date of record, date and place of marriage, name, residence and official station of the person by whom solemnized; for each of the parties to be married the name, date and place of birth, residence, age, number of the marriage, as first or second, and if previously married, whether widowed or divorced, and the birth-given names of their parents.

In the record of death, date of death, names of deceased, including birth surname for women, social security number, sex, race, marital status, education, name of spouse if ever married, supposed age, residence, occupation, place of death, place of birth, names and places of birth of the parents, birth surname of the mother, disease or cause of death, defined so that it can be classified under the international classification of causes of death, place and type of immediate disposition. The word "residence", as used in this section, shall include the name of the street and number, if any, of the house.

SECTION 16. Section 1E of said chapter 46, as so appearing, is hereby amended by striking out paragraph (c) and inserting in place thereof the following paragraph:-

(c) "Custodian", a town clerk, the archivist of the commonwealth, the superintendent of the Quabbin reservoir and the state registrar.

SECTION 17. Said section 1E of said chapter 46, as so appearing, is hereby further amended by striking out, in line 14, the word "Registrar" and inserting in place thereof the following words:- "State registrar".

SECTION 18. The first paragraph of section 3A of said chapter 46, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following four sentences:- If the hospital in which such birth occurred delivers more than 99 births per year, such report shall be prepared on an electronic system of birth registration approved by the commissioner of public health and transmitted to the state registrar. Said administrator or person in charge shall then forthwith make, or cause to be made, a copy of such report on forms prepared and furnished by the commissioner of public health and shall, within ten days after obtaining such report, file such copies with the town clerk of the city or town wherein the birth occurred. Such copies shall be signed or otherwise verified by the mother in a manner developed pursuant to regulations promulgated pursuant to section 4 of chapter 17, or, if she is not able, then by the father or other responsible adult, attesting to the truth and accuracy of the facts appearing in the report. Such copies shall also be signed or otherwise verified, in a manner specified under regulations promulgated pursuant to section 4 of chapter 17, by the physician, certified nurse midwife or hospital medical officer in charge of such birth or by an administrator designated by the hospital as overseeing birth registration.

SECTION 19. Said section 3A of said chapter 46, as so appearing, is hereby further amended by striking out the second paragraph.

SECTION 20. Section 3C of said chapter 46, as so appearing, is hereby amended by adding the following two sentences:- If the mother of the child was or is married and the child's birth occurs during the marriage or within 300 days of termination of the marriage by divorce, a voluntary acknowledgment of parentage naming the putative father may be executed by the mother and the putative father only if the mother and the mother's husband

Chap. 64

at the time of the child's birth or conception sign an affidavit denying that the husband is the father of the child, as provided in section 5 of chapter 209C. Where the marriage has been terminated by annulment or by the death of either the husband or the wife, paternity of the putative father may only be established by filing a complaint to establish paternity as provided by chapter 209C.

SECTION 21. Said chapter 46 is hereby further amended by inserting after section 3C, as so appearing, the following section:-

Section 3D. The state registrar shall accept for filing acknowledgments of paternity obtained by the hospital administrator and the city and town clerk pursuant to this chapter and adjudications of paternity entered by the court pursuant to chapter 209C and shall upon request make such records available to the IV-D agency as set forth in chapter 119A. The state registrar shall upon such request make available, including by electronic access, to the IV-D agency for purposes of child support enforcement, records of adjudications and acknowledgments and records of subjects for whom no father's name has been inserted on the subject's birth certificate within six months of birth, including the names, addresses, and social security number of the subject of the record, the subject's mother, and the subject's father, where available.

SECTION 22. Said chapter 46 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. (a) If the record relating to a birth, marriage, acknowledgment or adjudication of paternity, or death does not contain all the required facts, or if it is claimed that the facts are not correctly stated therein, the town clerk or state registrar shall receive from the person required by law to furnish the information for the original record, or by credible persons having knowledge of the case, an affidavit containing the missing or corrected facts required to correct or complete the record, accompanied by documentary evidence substantiating such facts beyond a reasonable doubt. Except as hereinafter provided, such amendments or additions can be made only to reflect the correct information at the time of the event. The minimum documentary evidence to be required shall be specified by regulations promulgated pursuant to section 4 of chapter 17.

(b) Any record filed under this chapter may be amended, corrected or supplemented within one year after the date of the event without such affidavit or documentary evidence if allowed by regulations promulgated pursuant to the provisions of section 4 of chapter 17, except such amendments, corrections, or supplements which are expressly provided for hereinafter.

(c) If a person shall have acquired the status of a child born in wedlock by the intermarriage of his parents and the acknowledgment of his father or an adjudication of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth or any other law, the record of his birth shall be amended so as to read, in all respects, as if such person had been reported at the time of birth as born to such parents in lawful wedlock.

(d) If a person is born to parents not married to each other or if the mother and her husband at the time of the birth or conception of the child complete an affidavit denying that the husband is the father of the child, or if there is an adjudication of the nonpaternity of the mother's husband, such person's birth record shall be amended to include the putative father's information required by section 1 provided that:

(1) the mother and the putative father have signed and filed an acknowledgment of paternity with the clerk in the city or town where the birth occurred, the state registrar, or the probate and family court having jurisdiction over the parties or the child pursuant to chapter 209C;

(2) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth and the court presents to the state registrar a certified copy of such judgment on a form provided by the state registrar to amend the birth certificate;

(3) there has been an acknowledgment of paternity, or a judgment of paternity by a court or administrative agency of competent jurisdiction under the laws of the commonwealth or of another state or a foreign country, and one of the following persons requests an amendment and presents to the state registrar a copy of such judgment: the mother, the father named in such acknowledgment or judgment of paternity, the father named currently on the birth record, the subject of the record, the legal guardian of the subject, or the legal representative of any of the foregoing;

(4) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction in the commonwealth and the court orders the state registrar to amend the birth certificate to include the information relating to the father. Such order may include an order to amend information relating to the name of the child; or

(5) there has been a judgment of paternity by a court or administrative agency of competent jurisdiction in the commonwealth approving or adopting a judgment establishing paternity issued by a court or administrative agency of competent jurisdiction under the law of another state or a foreign country, and the court presents to the state registrar a certified copy of such judgment on a form provided by the state registrar to amend the birth certificate. The clerk of the city or town where the child was born or the state registrar shall amend the birth certificate consistent with the findings of the court and the certificate shall be required to read, in all respects, as if such information had been reported at the time of such birth. The fact that paternity was established after the child's birth shall not be ascertainable from the new certificate but the actual place and date of birth shall be shown. The original certificate and the evidence upon which the amended birth certificate was made and the original birth certificate shall be subject to inspection by the mother, the father, the subject of the record, any man presumed to be the father under section 6 of chapter 209C, or government officials requiring access for their official duties, including the IV-D agency as set forth in chapter 119A, or a legal representative of the subject of the record; an order of the probate and family court in the county where the child was born is required for anyone else seeking access to the original record or evidence.

Chap. 64

(e) If a person has completed sex reassignment surgery, so-called, and has had his name legally changed by a court of competent jurisdiction, the birth record of said person shall be amended to reflect the newly acquired sex and name, provided that an affidavit is received by the town clerk, executed by the person to whom the record relates, and accompanied by a physician's notarized statement that the person named on the birth record has completed sex reassignment surgery, so-called, and is not of the sex recorded on said record. Said affidavit shall also be accompanied by a certified copy of the legal change of name aforementioned above.

(f) If the birth of a child is recorded as that of a child born in wedlock to the mother and the man who was her husband at the time of such birth, and the nonpaternity of the husband has been legally determined by a court of competent jurisdiction pursuant to the laws of the commonwealth or by a court or administrative agency of competent jurisdiction under the laws of another state or foreign country, or if the birth of a child is recorded as that of a child whose parentage has been acknowledged by the mother and the putative father and either parent rescinds the acknowledgment as provided in section 11 of chapter 209C or under similar law of another state or foreign country, the birth record shall be amended to remove the father's information provided that:

(1) there has been a judgment of nonpaternity by a court under the laws of the commonwealth and the court presents to the state registrar a certified copy of such judgment, together with a form provided by the state registrar to amend the birth certificate; or

(2) there has been a judgment of nonpaternity by a court or administrative agency of competent jurisdiction under the laws of another state or foreign country and one of the following persons requests an amendment and presents to the state registrar a certified copy of such judgment: the mother, the father named in such judgment of nonpaternity, the subject of the record, the legal guardian of the subject of the record, or the legal representative of any of the foregoing.

(g) If a person shall have been adopted by judicial decree, the clerk of the town where such person was born or the state registrar shall receive the certificate of such adoption issued under the authority of section 6A of chapter 210 or a certified copy of the decree for such adoption, whether issued by a probate court for the commonwealth or by the appropriate court of any other state or country. Except as hereinafter provided, said clerk or state registrar, after receiving such certificate of adoption or any such certified copy, shall forthwith correct the record of birth of the person so adopted. If such certificate or certified copy does not contain the facts relative to the adopting parents hereinafter required for correcting such record, the clerk or state registrar shall not correct such record until he has received an affidavit, signed and sworn to by the adopting parents, or by the person adopted, furnishing such facts.

(h) The clerk or state registrar shall on forms provided by the state registrar complete an amended, corrected, or supplemented record of birth, death, acknowledgment or adjudication of paternity, or marriage. The original record of birth, death, acknowledgment or adjudication of paternity, or marriage and all returns and index entries in whatever format

they are maintained shall be identified as corrected, amended, or supplemented. Effective January 1, 2000, all documentary evidence, including certificates of adoption or certified copies thereof, shall be sent to the state registrar for permanent filing. Until that date, the clerk shall transmit to the state registrar a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit. If the affidavit is initially submitted to the state registrar, the state registrar shall forward to the town clerk where the birth or death occurred, a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit, and the town clerk shall thereupon correct, amend or supplement the record in his office. If a copy of the record had been sent to the town clerk of the residence of the parents at the time of birth or where the deceased lived at the time of death, the state registrar shall forward to such city or town clerk a certified copy of the corrected, amended or supplemented record, noting the documentary evidence to substantiate the affidavit, and the town clerk shall thereupon correct, amend or supplement the record in his office. Reference to the record of the affidavit or such decree shall be made on the margin of the original record. If the clerk or state registrar furnishes a copy of such a record, he shall certify to the facts contained therein as corrected, amended or supplemented. Except as provided in the following two sentences, said clerk or other official responsible for the keeping of such records shall not release said information contained in such original record except upon proper judicial order, or when requested by a person seeking his own birth or marriage record, or by a person whose official duties, in the opinion of the state registrar or town clerk, entitle him to the information contained in the original record. Death records which are corrected, amended or supplemented after January 1, 1996, as well as the affidavit of the party seeking the correction, amendment, or supplementation of the death record and all documentary evidence or related records submitted in support of such affidavit shall not be restricted, except for records or other items of documentary evidence submitted in support of the affidavit which are considered medical records for purposes of paragraph (c) of clause twenty-sixth of section 7 of chapter 4 are restricted by section 2A of this chapter, or are restricted by judicial order. If the original record has been amended following adoption in accordance with this section, the clerk or state registrar shall issue information contained in the original record only upon receipt of an order of the probate court for the county in which said adoption was granted, or in the case of an adoption granted outside the commonwealth, upon order of the probate court for the county in which said birth occurred, instructing said clerk or state registrar to release the information contained in such original record. If the corrected, amended or supplemented record is that of a person who has acquired the status of a child born in wedlock, or whose record has been amended through an adoption decree, or whose record has been amended through addition of the name of the father, the clerk or state registrar shall not indicate on such copy that the record has been corrected, amended or supplemented.

(i) Such affidavit, or a certified copy of the record of any other town or of a written statement made at the time by any person since deceased required by law to furnish evidence thereof, may be made the basis for completing the record of a birth, marriage or death not

containing all the facts required by section 1 of this chapter. No delayed record of birth shall be established for any deceased person more than five years after the date of death nor shall any delayed record of marriage be established if both the wife and husband are deceased, except as provided by sections 13A, 13B and 13C.

(j) Upon the adoption of any abandoned child or foundling within the commonwealth and adopted according to the laws thereof and as to whose birth the facts required by section 1 or section 1A to be recorded have not been recorded, or, if recorded, cannot be identified, the state registrar upon receipt of an affidavit executed by the adopting parents, setting forth all the material facts known to him or them concerning said child or foundling, and of an order issued by the commissioner of social services determining the date of birth of such child or foundling as nearly as may be, shall receive and record the facts relative to such births as provided in section 1 or section 1A. In addition to any other certificates or copies of such records authorized by law, said commissioner may, upon application, issue certificates setting forth the facts concerning said abandoned child or foundling appearing in any records of the department of social services if no certificate of birth is recorded in the city or town where the child was born or the state registry.

(k) The person upon whose application a record of a birth, marriage or death is corrected or amended, or a delayed record of a birth, marriage or death is entered shall pay the fee as determined by the secretary of administration and finance.

SECTION 23. Said chapter 46 is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. Effective January 1, 2000, the clerk of each town and of each city shall, on or before the tenth day of the second month following every month in which births occurred in the city or town, transmit to the state registrar, upon forms furnished by him, the original records of such births and any documentary evidence including voluntary acknowledgments signed by the parents and adjudications of paternity entered by the court. The clerk of each city and town shall retain a certified copy of said birth records. If no births occurred in the city or town during the month for which a report is required, a report of such fact shall be sent on forms provided by the state registrar. Prior to January 1, 2000, the city or town clerk in which the birth occurred shall forward to the state registrar a certified copy of each record of birth and original copies of all acknowledgments and adjudications of paternity filed with such birth records. The city or town clerk shall make an attested, certified copy of these documents for the files of the office of the city or town clerk.

SECTION 24. Said chapter 46 is hereby further amended by inserting after section 17 the following four sections:-

Section 17A. Effective January 1, 2000, the clerk of each city and town shall, on or before the tenth day of the second month following every month in which marriages are solemnized, transmit to the state registrar upon forms furnished by him, the original record of such marriages and all documentary evidence. Certified copies of the marriages shall be retained by said clerk. If no marriages were filed for the month of the report, a report of such fact shall be transmitted to the state registrar. Prior to January 1, 2000, the clerk shall maintain all original documents and transmit to the state registrar a certified copy of each

Chap. 64

record of marriage. The clerk of each city and town shall annually, not later than April 15, report to the state registrar on forms furnished by him the number of intentions filed in the clerk's office, and the number of intentions on which licenses were not issued, or, if issued, not returned to the clerk.

Section 17B. Effective January 1, 2000, the clerk of each city and town shall, on or before the tenth day of the month, transmit to the state registrar upon forms furnished by him, the original records of death and any documentation relating to said certificates of death recorded therein during the preceding month or, in case no such deaths have occurred, a certificate of such fact. The clerk in the city or town shall retain a certified copy of the record of said death. Prior to January 1, 2000, the clerk shall maintain all original documents and supporting documentation and transmit to the state registrar a certified copy of each record of death.

Section 17C. The original form and documentary evidence of such amendments and corrections in birth, marriage and death records as have not been previously returned shall be transmitted to the state registrar by the tenth day of the following month. A certified copy of any such forms completed by the clerk shall be retained by said clerk.

Section 17D. If an amendment to a birth, death or marriage record is completed at the state registry, the state registrar shall forward a certified copy of the amended birth, death or marriage record to all cities and towns holding an original or certified copy of the initial record within ten days of recording such event. If a delayed record of birth or death or other return of birth or death is recorded by the state registry, the state registrar shall transmit a certified copy of a delayed record of marriage to the town clerk where the original intention of marriage was filed. In cases where no such intention has been filed, the state registrar shall transmit such certified copy to the town clerk in the community where the marriage occurred.

SECTION 25. Section 21 of chapter 62C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 5 and 6, the words "other than the name and address of the person filing it,".

SECTION 26. Subsection (b) of said section 21 of said chapter 62C, as so appearing, is hereby amended by striking out paragraph (5) and inserting in place thereof the following paragraph:-

(5) upon written request, the inspection by, or provision of copies to, the director of the bureau of special investigations of tax returns or other documents filed with the commissioner of revenue, including information which appears in child support enforcement files maintained by the IV-D agency as set forth in chapter 119A concerning dates and amounts of income received, employer, last known address and other information relevant to the investigation of fraud, concerning any person where there is reason to believe that such person has committed fraud under any assistance program administered by the department of transitional assistance or any program administered by the department of social services;.

SECTION 27. Said subsection (b) of said section 21 of said chapter 62C, as so appearing, is hereby further amended by adding the following two paragraphs:-

(17) the disclosure of return information in any judicial or administrative action, proceeding or activity relating to the conduct, job performance or personnel rights of any employee or former employee of the department of revenue, solely for use in, and only to the extent necessary for, the action, proceeding or activity, or in preparation for the action, proceeding or activity. Return information shall, upon written request, also be available to an employee or former employee of said department, or his duly authorized representative, who is or may be a party or a participant in such action, proceeding or activity to the extent that the requested information is or may be relevant thereto, solely for use in, and only to the extent necessary for, the action, proceeding or activity, or in preparation for the action, proceeding or activity. Except as otherwise provided in this subsection, return information disclosed pursuant to this paragraph shall be kept confidential.

(18) the disclosure of the name and address of a person filing any return or document with the commissioner, provided that such information shall not be disclosed if the IV-D agency has been provided with reasonable evidence of a risk of harm pursuant to section 5A of chapter 119A.

SECTION 28. Section 47A of said chapter 62C, as so appearing, is hereby amended by inserting after the word "tax", in line 31, the second time it appears, the following words:- or has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support.,.

SECTION 29. Said section 47A of said chapter 62C, as so appearing, is hereby further amended by inserting after the word "tax", in line 41, the following words:- or the licensee has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support.

SECTION 30. Said section 47A of said chapter 62C, as so appearing, is hereby further amended by inserting after the word "notification", in line 55, the following words:- or, if the licensee has been penalized for failure to comply with the provisions relating to reporting of employees and contractors under chapter 62E or withholding and remitting child support under chapter 119A, a certificate issued by the commissioner that the licensee is in compliance with said provisions.

SECTION 31. Section 49A of said chapter 62C, as so appearing, is hereby amended by inserting after the word "taxes", in lines 3, 7, and 13, in each instance, the following words:- , reporting of employees and contractors, and withholding and remitting child support.

SECTION 32. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by inserting, after the word "tax", in line 21, the second time it appears, the

Chap. 64

following words:- or has been penalized pursuant to section 9 of chapter 62E for failure to comply with the provisions under said chapter 62E relating to reporting of employees and contractors, or has been penalized pursuant to paragraph (3) of subsection (f) of section 12 of chapter 119A for failure to comply with the provisions under said chapter 119A relating to withholding and remitting child support,.

SECTION 33. Said section 49A of said chapter 62C, as so appearing, is hereby further amended by inserting after the word "notification", in line 27, the following words:- or, if the licensee has been penalized for failure to comply with the provisions relating to reporting of employees and contractors under chapter 62E or withholding and remitting child support under chapter 119A, a certificate issued by the commissioner that the licensee is in compliance with said provisions.

SECTION 34. Chapter 62E of the General Laws is hereby amended by striking out section 1, as so appearing, and inserting in place thereof the following section:-

Section 1. The following words as used in this chapter shall, unless the context otherwise requires, have the following meanings:-

"Bureau of special investigations", the bureau of special investigations established pursuant to section 15B of chapter 22.

"Business day", a day on which state offices are open for regular business.

"Commissioner", the commissioner of revenue.

"Contractor", any person who is 18 years of age or older who performs services in the commonwealth, to whom a payor of income makes payments that are not subject to withholding of taxes, and for whom the payor of income makes at least one payment that will require the payor to complete a 1099-MISC form under Internal Revenue Service requirements.

"Employer", employer as defined in section 3401(d) of the Internal Revenue Code.

"Employee", employee as defined in section 3401(c) of the Internal Revenue Code.

"Internal Revenue Code" or "Code", the Internal Revenue Code of the United States, as amended and in effect at the time wages are required to be reported under this chapter.

"IV-D agency", the state agency that has the responsibility for administering or supervising the administration of the provision of child support enforcement services pursuant to Title IV, Part D of the Social Security Act and chapter 119A of the General Laws.

"Labor organization", any organization, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, or any other organization described in section 2, paragraph 5 of the National Labor Relations Act 29 USC 152(5), including any entity, also known as a hiring hall, which is used by a labor organization and an employer to carry out requirements of an agreement that requires the employer to notify the labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or that is otherwise included under section 8, paragraph (f)(3) of said National Labor Relations Act.

Chap. 64

"Obligor", an individual, or the estate of a decedent, who owes or may owe a duty of support, or who is liable under a child support obligation, or who is alleged, by sworn statement, to be the parent of a child to whom a duty of support is owed.

"Payor of income", a person engaged in a trade or business in the commonwealth who engages a contractor for compensation.

"Reporting system", the wage reporting and financial institution match system established in section 3.

SECTION 35. Section 2 of said chapter 62E, as so appearing, is hereby amended by inserting after the word "employers", in line 13, the following words:- , including all governmental entities, and every labor organization,.

SECTION 36. Said section 2 of said chapter 62E, as so appearing, is hereby further amended by inserting after the word "employee.", in line 14, the following four sentences:- Every payor of income who enters into an agreement with a contractor for the performance of services shall so notify the department of revenue upon entering into such an agreement. Upon the retirement of an employee who thereafter receives a regular retirement allowance, such employers, including all governmental entities, and every labor organization, shall, in addition, notify the department of revenue of the retirement of such employee and of the entity paying such retirement allowance and the address of such entity. Upon the filing of a workers' compensation claim pursuant to chapter 152 by any employee, such employers, including all governmental entities, and every labor organization, shall, in addition, notify the department of revenue of the claim of such employee, the entity which provides workers' compensation insurance coverage, and the address of such entity. Notwithstanding the provisions of this section, no such notice shall be given of an employee of a federal or state agency performing intelligence or counterintelligence functions if the head of such agency has determined that notice to the department under this paragraph could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission; provided that any agency head who has made such a determination shall notify the commissioner that pursuant to such determination some employees have not been reported.

SECTION 37. Said section 2 of said chapter 62E, as so appearing, is hereby further amended by inserting after the word "reporting", in line 18, the following words:- and financial institution match.

SECTION 38. Said section 2 of said chapter 62E, as so appearing, is hereby further amended by inserting after the word "employer", in lines 19 to 20, the following words:- , including a governmental entity or a labor organization, or a payor of income.

SECTION 39. Section 3 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 2, the word "bank" and inserting in place thereof the following words:- financial institution.

SECTION 40. Section 4 of said chapter 62E, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "whose accounts on the books of such institution have a residential address within the commonwealth," and inserting in place thereof the following words:- maintaining accounts on the books of such institution.

Chap. 64

SECTION 41. Said section 4 of said chapter 62E, as so appearing, is hereby further amended by striking out, in line 43, the word "mean" and inserting in place thereof the following word:- include.

SECTION 42. Said section 4 of said chapter 62E, as so appearing, is hereby further amended by striking out, in lines 45 and 46, the words "or a money market mutual fund account" and inserting in place thereof the following words:- money market mutual fund account or a life insurance policy with a cash surrender value.

SECTION 43. Said section 4 of said chapter 62E, as so appearing, is hereby further amended by adding the following subsection:-

(f) All reports under this section shall be part of the wage reporting and financial institution match system established pursuant to section 3.

SECTION 44. Section 5 of said chapter 62E, as so appearing, is hereby amended by inserting after the word "employer", in line 9, the following words:- or payor of income.

SECTION 45. Said section 5 of said chapter 62E, as so appearing, is hereby further amended by inserting after the word "associations", in line 13, the second time it appears, the following words:- , pension or retirement plans.

SECTION 46. Said section 5 of said chapter 62E, as so appearing, is hereby further amended by striking out, in line 14, the words "or safe deposit" and inserting in place thereof the following words:- , safe deposit companies or other similar.

SECTION 47. Section 8 of said chapter 62E, as so appearing, is hereby amended by inserting after the word "system", in line 8, the following words:- ; and provided further, that subject to the safeguards established pursuant to section 5A of chapter 119A, the IV-D agency may disclose information to any agent of the IV-D agency that is under contract with the IV-D agency for purposes of administering the child support enforcement program of the commonwealth, only to the extent necessary for performance of such agent's contracted duties.

SECTION 48. Said chapter 62E is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. Any employer or payor of income required to submit a report pursuant to this chapter who fails, without reasonable cause, to comply with such reporting requirements shall be liable for a penalty assessed by the department in the following amount for each employee or contractor with respect to whom such employer or payor of income is required to file a report but who is also not included in such report or for whom the required information is not accurately reported, for each employee or contractor required to be included:- up to \$25 for each employee or contractor or if the result of a conspiracy between the employer and the employee or contractor not to supply the required report or to supply a false or incomplete report, \$500 for each such employee or contractor.

Any treasurer who is required to submit a report pursuant to the provisions of section 4 who fails, without reasonable cause, to comply with such reporting requirements or who willfully renders false information in reply to such request, shall be liable for a penalty assessed by the department of \$1,000. Said department may collect a penalty assessed under

this section by any means authorized for the collection of corporate or partnership taxes under chapter 62C.

SECTION 49. Section 10 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 2, the word "bank" and inserting in place thereof the following words:- financial institution.

SECTION 50. Said section 10 of said chapter 62E, as so appearing, is hereby further amended by striking out, in line 8, the words "money-market".

SECTION 51. Section 11 of said chapter 62E, as so appearing, is hereby amended by striking out, in lines 2 and 8, the word "bank", each time it appears, and inserting in place thereof, in each instance, the following words:- financial institution.

SECTION 52. Said section 11 of said chapter 62E, as so appearing, is hereby further amended by inserting after the word "states", in line 3, the following words:- , as required by federal law.

SECTION 53. Said section 11 of said chapter 62E, as so appearing, is hereby further amended by striking out, in line 4, the words "absent parents" and inserting in place thereof the following word:- obligors.

SECTION 54. Section 12 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 4, the word "bank" and inserting in place thereof the following words:- financial institution.

SECTION 55. The second paragraph of said section 12 of said chapter 62E, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The commissioner may provide access to data gathered as part of the wage reporting and financial institution match system for research and statistical purposes relating to administration of the tax laws, public assistance programs of the commonwealth or any political subdivision thereof or their respective agencies, workers' compensation laws or the child support enforcement program of the commonwealth; provided, however, that such data shall be released without personal identifiers.

SECTION 56. Section 13 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 3, the word "bank" and inserting in place thereof the following words:- financial institution.

SECTION 57. Section 14 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 7, the word "bank" and inserting in place thereof the following words:- financial institution.

SECTION 58. Section 22 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out paragraph (g) and inserting in place thereof the following paragraph:-

(g) Upon receipt of notice, as specified by the registrar, from the department of revenue that a final determination of child support delinquency to suspend or prohibit issuance or renewal of a license has been issued against a resident of the commonwealth or an individual licensed to operate a motor vehicle under this chapter, after a hearing or an opportunity therefor pursuant to section 16 of chapter 119A, the registrar, without opportunity for further hearing, shall suspend or prohibit issuance or renewal of such license,

Chap. 64

learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such individual and forward any notice required by paragraph (d) to such individual. Notwithstanding any other provisions of this chapter, the opportunity for a hearing provided by the department of revenue pursuant to section 16 of chapter 119A shall constitute the exclusive administrative remedy to contest the existence of a child support arrearage which is the basis for action by the department of revenue to effect the suspension, nonissuance or nonrenewal of a license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration. The registrar shall reinstate, issue or renew such license, learner's permit or right to operate a motor vehicle or allow the registration of a motor vehicle if the department of revenue provides to the registrar a notice, as specified by the registrar, stating that the resident or other individual is in compliance with a subpoena, warrant, summons or judgment or order for child support, including any agreement with or regulation issued by the department of revenue governing payment of arrears or upon order by the reviewing court, if the individual is otherwise entitled thereto. Notices between the department of revenue and the registrar under this subsection may be made in any form, including electronic transmission. Upon exhaustion of administrative remedies provided in section 16 of chapter 119A, an individual aggrieved by a final determination of the department of revenue, as adopted or acted upon by the registrar, may seek judicial review of the final determination issued by the department of revenue in the court where the child support order was issued, which has jurisdiction to register the order, or which issued the subpoena, warrant or summons, within 45 days of the date of the registrar's notice to such individual that his license, learner's permit, right to operate a motor vehicle or certificate of motor vehicle registration is subject to suspension, nonissuance or nonrenewal; provided, however, that a request for judicial review shall be by action against the department of revenue and not the registrar and shall be accompanied by a copy of the department of revenue's final determination. Such review shall constitute the exclusive remedy for individuals aggrieved by a final determination as adopted or acted upon by the registrar under section 16 of chapter 119A; provided, however, that such review shall not limit an individual's appellate remedies. The provisions of section 28 shall not apply.

SECTION 59. Chapter 111 of the General Laws is hereby amended by striking out section 24B, as so appearing, and inserting in place thereof the following section:-

Section 24B. Upon the birth of any child, the physician, certified nurse midwife, administrator or other person in charge of a hospital, or any other person responsible for reporting a birth pursuant to chapter 46 shall forward to the commissioner any information, including the residence address and social security number of each parent, as required by the commissioner for administrative, research and statistical purposes, including the purposes of the IV-D agency as set forth in chapter 119A. Access to such information by the IV-D agency shall include electronic access. Such data that is included in the certificate of birth shall be transmitted within ten days of the birth of the child and shall not constitute a public record and shall not be available except for the foregoing purposes. Disclosure of information for research purposes which may identify any person named in any vital record

or report restricted by section 2A of chapter 46 or by this section may only be made in accordance with regulations promulgated pursuant to section 4 of chapter 17, which regulations shall require the submission of written requests for information by researchers and the execution of research agreements that protect the confidentiality of the information provided. Such agreements shall prohibit the release by the researcher of any information that might identify any person. For the purposes of this chapter, research means a systematic investigation designed primarily to develop or contribute to general knowledge, including public health, medical, social, demographic and historical research. Nothing in this section shall prohibit the release of information or data that would not identify any person named in a vital record or report.

SECTION 60. Section 28 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words "At the discretion of the court, whenever appropriate, any" and inserting in place thereof the following word:- Any.

SECTION 61. Said section 28 of said chapter 119, as so appearing, is hereby further amended by striking out, in line 14, the word "may" and inserting in place thereof the following word:- shall.

SECTION 62. Said section 28 of said chapter 119, as amended by section 52 of chapter 19 of the acts of 1997, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Actions under this section to establish support of a child may be commenced by a parent, whether a minor or not; by the child; by the child's guardian, next of kin or other person standing in a parental relationship to the child; by the authorized agent of the department of social services or any agency licensed under chapter 28A provided that the child is in their custody or is or was a recipient of any type of public assistance by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of social services, the division of medical assistance, or any other public assistance program of the commonwealth. In the event that someone other than the IV-D agency commences the action, if the parent or child is or was a recipient of any type of public assistance, the court shall notify said IV-D agency of the pendency of the action and said IV-D agency shall be permitted to intervene in the action.

SECTION 63. Section 51B of said chapter 119, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "section", in line 173, the following words:- or permitted to disclose information pursuant to section 5A of chapter 119A.

SECTION 64. Section 1 of chapter 119A of the General Laws, as so appearing, is hereby amended by inserting after the word "obtaining", in line 14, the following word:- , modifying.

SECTION 65. Said section 1 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "enforcing", in line 14, the following word:- child.

SECTION 66. Said section 1 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "orders", in line 15, the following words:- , including orders for health care coverage, and establishing paternity.

Chap. 64

SECTION 67. Said chapter 119A is hereby further amended by inserting after section 1 the following section:-

Section 1A. For purposes of administering the child support enforcement program pursuant to this chapter, the following terms shall have the following meanings:

"Business day", a day on which offices of the commonwealth are open for regular business.

"Employee", an individual who performs any service, of whatever nature, for wages or other compensation, including services (i) under an independent contractor arrangement, (ii) as an officer of a corporation, or (iii) as an officer, employee or elected official of the United States, a state, or any political subdivision thereof, or any city or town, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing; and any person included under chapter 24 of the Internal Revenue Code.

"Employer", the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that-

(a) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "employer" means the person having control of the payment of such wages, and

(b) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "employer" means such person.

"Employer" shall include the United States, a state, or any political subdivision thereof, or city or town, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, and any person included under section 3401(d) of the Internal Revenue Code of 1986. "Employer" shall also include any entity also known as a hiring hall, which is used by a labor organization described in section 2(5) of the National Labor Relations Act 29 USC 152(5) and an employer to carry out requirements of agreements that require the employer to notify the labor organization of opportunities for employment with such employer, or that give such labor organization an opportunity to refer qualified applicants for such employment, and any entity through which a labor organization provides health care coverage or other benefits to its members.

"Income", any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, unemployment and workers' compensation, disability payments, payments pursuant to a pension or retirement plan, military pay, other payments made in lieu of periodic payments including severance pay and salary advance, and interest.

"IV-D services", child support enforcement services provided by the IV-D agency relating to the location of obligees and obligors, the establishment of paternity or the establishment, modification, or enforcement of child support obligations and health care coverage, the collection and disbursement of child support payments, and any other services and responsibilities required by Title IV, Part D of the Social Security Act, as appropriate, with respect to each child for whom public assistance is provided under Title IV, Parts A and

E, and Title XIX, of the Social Security Act, or under other public assistance programs as required by federal or state law, or for whom such assistance was provided and the IV-D agency continues to provide child support enforcement services; and any other child, if an individual applies for such services with respect to the child.

"Obligee", an individual to whom support is or may be owed or in whose favor a support order has been issued or a judgment of paternity has been, or may be, rendered or a state or political subdivision to which rights under a child support obligation have been assigned or which has independent claims based on financial assistance provided to an individual obligee.

"Obligor", an individual, or the estate of a decedent, who owes or may owe a duty of support, or who is liable under a child support obligation, or who is alleged, by sworn statement, to be the parent of a child to whom a duty of support is owed.

"Pension or retirement plan", any program providing payments or benefits to former employees, including programs pursuant to the Employee Retirement Income Security Act, 29 USC 1001, et seq.; any other private pension or retirement program, including intrastate pension plans and church pension plans; any federal employee retirement system pursuant to 5 USC 8401, et seq., civil service retirement and disability system pursuant to 5 USC 8301, et seq., or United States military pension or retirement plan pursuant to Title 10, Subtitles A, B, C and D of the United States Code; any program pursuant to chapter 484 of the acts of 1950; and any other public contributory retirement system, pursuant to any other codified or uncoded statute, for the benefit of employees of any governmental unit or political subdivision of the commonwealth, any district or public unit created within one or more political subdivisions of the commonwealth for the purpose of providing public services or conveniences, any public school district, the general court, the judiciary, any military department of the commonwealth, any public commission or board, any public authority including the Massachusetts Bay Transportation Authority, the Massachusetts Turnpike Authority, the Massachusetts Port Authority and any municipal or regional housing authority, or any other public entity.

"Support order", a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, which provides for monetary support, health care coverage, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other monetary relief. For purposes of enforcement only, "support order" includes an order for the support of a parent with whom the child is living.

SECTION 68. Said chapter 119A is hereby further amended by striking out section 2, as amended by chapter 19 of the acts of 1997, and inserting in place thereof the following section:-

Section 2. (a) In accordance with the provisions of Title IV, Part D of the Social Security Act, the IV-D agency shall provide IV-D services to children and families, whether

or not they are recipients of public assistance, to establish, modify, and enforce child support obligations. Said services shall include, through the use of expedited administrative and judicial procedures, the location of obligees and obligors, the establishment of paternity, the establishment, modification, and enforcement of child support orders, including orders for health care coverage, the collection and disbursement of support payments, the enforcement of support orders through civil and criminal proceedings, including criminal contempt and criminal prosecution for failure to pay support, and any other services or responsibilities required by said Title IV, Part D and this chapter. Said IV-D agency shall accept applications for services from individuals seeking to establish, modify, or enforce orders of child support, including orders for health care coverage, with respect to a child who is not a recipient of public assistance, and may charge a fee for such services which shall be established pursuant to the provisions of section 3B of chapter 7, subject to the provisions of federal law.

The IV-D agency shall also enforce the subrogation rights of the department of transitional assistance under section 21 of chapter 18, the subrogation rights of the department of social services under section 23 of chapter 119, and the subrogation rights of the division of medical assistance under section 23 of chapter 118E, and shall provide IV-D services for each child for whom assistance is provided pursuant to Title IV, Parts A and E, and Title XIX of the Social Security Act, or other public assistance programs as required by federal or state law, and for whom such assistance has been provided. Pursuant to section 18A of chapter 18, the IV-D agency shall make the determination and redetermination at appropriate intervals as to whether an individual who has applied for or is receiving assistance under Part A or Title XIX of the Social Security Act is cooperating in good faith with the IV-D agency in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the IV-D agency with the name of and such other information with respect to the noncustodial parent of the child, as required by regulation promulgated by the commissioner of revenue and subject to good cause and other exceptions determined by the department of transitional assistance and the division of medical assistance. IV-D services shall be made available to residents of other states and to residents of foreign reciprocating countries on the same basis as to residents of the commonwealth, provided there is jurisdiction over the parties, their income or assets; provided further that no application will be required from, and no costs for such services will be assessed against, the foreign reciprocating country or foreign obligee; provided, however, that costs may be assessed against the obligor. The IV-D agency shall enforce any support obligation established with respect to the custodial parent of a child receiving IV-D services from the IV-D agency; provided, however, the IV-D agency is not required to establish or modify a support obligation with respect to such custodial parent.

(b) The first priority of the IV-D agency with regard to the enforcement of the subrogation rights of the department of transitional assistance shall be the collection of sufficient support payments on behalf of recipients of public assistance to enable such recipients to live independently of public assistance; provided, however, that the department

Chap. 64

of transitional assistance is authorized to receive support payments made on behalf of a current recipient, or on behalf of a former recipient for arrearages owed to the department of transitional assistance, only to the extent required by the provisions of Title IV, Part D of the Social Security Act.

(c) In carrying out said responsibilities, the IV-D agency may expend such funds as may be necessary for public information, including paid advertisements and outreach programs to advise the public of the services available through such agency to establish, modify, or enforce orders of child support, and to publicize the availability and to encourage the use of procedures for voluntary acknowledgment of paternity and of other IV-D services. Any penalty, fee or interest that this chapter authorizes to be assessed by the IV-D agency shall be collected and enforced by any means authorized under this chapter for the enforcement and collection of child support. Upon collection, a penalty or fee shall be retained by the IV-D agency; provided, however, that such penalties or fees shall be placed in a separate fund established upon the books of the commonwealth by the comptroller; and provided further, that such penalties or fees may only be expended subject to appropriation. Upon collection, interest shall be distributed to the obligee.

SECTION 69. Section 3 of said chapter 119A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- (a) In enforcing the subrogation rights of the department of transitional assistance, the department of social services and the division of medical assistance, the IV-D agency may file an action either in the name of the recipient of public assistance or in the name of the department or both.

SECTION 70. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "of", in line 6, the following word:- IV-D.

SECTION 71. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:-

(b) The IV-D agency shall provide notice by first class mail to the address in the state case registry as set forth in rule 4(d)(2) of the Massachusetts Rules of Domestic Relations Procedure to individuals who have applied for or are receiving IV-D services, or who are parties to cases in which IV-D services are being provided, of all complaints and motions which the IV-D agency files or of proceedings of which the IV-D agency receives notice pursuant to court rule, in which support obligations might be established or modified, and the IV-D agency or the issuing court shall provide a copy of any order establishing or modifying a child support obligation, or, in the case of a request for modification made by either parent, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.

(c) The IV-D agency may use any method available to a private party to collect support, including the following:-

SECTION 72. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by striking out clauses (2) and (3) and inserting in place thereof the following two clauses:-

Chap. 64

(2) the IV-D agency may seek to obtain a modification of any outstanding court order for support, including health care coverage, on any complaint or judgment of divorce, separate support, paternity or support or may modify the order pursuant to section 3B.

(3) the IV-D agency may institute contempt proceedings under section 34A of chapter 215 to compel compliance with a court order or may institute proceedings to seek entry of a qualified domestic relations order pursuant to the Employee Retirement Security Act, 29 USC 1056.

SECTION 73. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by striking out clause (4) and inserting in place thereof the following clause:-

(4) the IV-D agency may intervene or appear in actions for divorce, separate support, paternity, support, appointment as guardian of a minor, care and protection or proceedings supplemental thereto, and in trust proceedings in which an obligor has a beneficial interest, for the purpose of advising the court as to the financial interest of the commonwealth in the action, when either or both of the parties or their child is receiving public assistance, or has received public assistance, or is receiving IV-D services, or for the purpose of seeking a qualified domestic relations order, pursuant to the Employee Retirement Income Security Act, 29 USC 1056, if an arrearage is owed to the IV-D agency pursuant to an existing court order or judgment for support;.

SECTION 74. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 44, the word "and".

SECTION 75. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 46, the word "nine D" and inserting in place thereof the following words:- 9D;

(8) the IV-D agency may file a petition under chapter 203 for the purpose of distribution of trust income; and

(9) the IV-D agency may file a complaint under chapter 109A alleging a fraudulent transfer by an obligor, on the basis of evidence showing a prima facie case that an obligor has transferred income or property to avoid payment of a support obligation.

SECTION 76. Said section 3 of said chapter 119A, as so appearing, is hereby further amended by adding the following sentence:- In an action to enforce payment of arrears or determine the current support obligation, the existence or amount of any arrears shall not be a basis for rebutting the current support obligation determined under the child support guidelines promulgated by the chief justice for administration and management.

SECTION 77. Said chapter 119A is hereby further amended by inserting after section 3 the following two sections:-

Section 3A. In any case requiring the establishment of paternity, the IV-D agency may, on the basis of an affidavit by the mother or the putative father alleging that sexual intercourse between the mother and putative father occurred during the probable period of conception and without the necessity of obtaining an order from a court, order the mother, the child and the putative father to submit to genetic marker tests; provided, however, that the IV-D agency may order such tests only if no other man is presumed to be the father under

section 6 of chapter 209C. Notice of the order shall be served on the obligor and individual obligee in accordance with rule 4(d)(2) of the Massachusetts Rules of Domestic Relations Procedure. Upon receipt of the results of the genetic marker tests, the IV-D agency may provide the parties with an opportunity to voluntarily acknowledge parentage pursuant to chapter 209C. If the parties do not voluntarily acknowledge parentage as provided in chapter 209C, the IV-D agency may commence an action to establish paternity pursuant to chapter 209C. If any party fails to appear for or refuses to submit to genetic marker tests in accordance with the order of the IV-D agency, or if any party contests the jurisdiction of the IV-D agency to issue the order for genetic marker tests, the IV-D agency shall commence an action to establish paternity pursuant to chapter 209C.

Section 3B. (a) With respect to a child support order in a case receiving IV-D services, every three years, or more frequently, as the commissioner may by regulation determine, upon the request of either parent, or if there is an assignment under Title IV, Part A of the Social Security Act, upon the request of the IV-D agency or either parent, the IV-D agency shall, taking into account the best interest of the child involved-

(1) review and, if appropriate, prepare a proposed stipulation to modify the order in accordance with the child support guidelines if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; provided, however, that no threshold for application of the guidelines to modifications shall apply;

(2) prepare a proposed stipulation to modify the order by applying a cost-of-living adjustment to the order in accordance with a formula developed by regulation promulgated by the commissioner of revenue; or

(3) use automated methods, including comparisons with wage or state income tax data or other data, to identify orders eligible for review, conduct the review, identify orders eligible for modification, and, if appropriate, prepare a proposed stipulation to modify an eligible order under any threshold for modification that may be established by regulation promulgated by the commissioner of revenue.

(b) The IV-D agency shall send notice of intent to modify the order, together with the proposed stipulation to modify the order under this section, by first class mail to the address of the obligor and the individual obligee as appearing in the state case registry pursuant to section 4. The parties may accept the proposed stipulation by signing it and returning it to the IV-D agency within 30 days of the date the notice is mailed. If the parties sign and return the stipulation to the IV-D agency within 30 days of the date the notice is mailed, the IV-D agency shall file a complaint to modify the order, together with the signed stipulation, and the signed stipulation shall provide a sufficient basis for the court to modify the order in accordance with the stipulation, without any additional testimony or hearing. If any party does not sign and return the proposed stipulation to the IV-D agency within 30 days of the date the notice is mailed, or if any party contests the proposed stipulation, the IV-D agency may file a complaint to modify the order.

Chap. 64

(c) If the order that the complaint seeks to modify was entered by a probate and family court of the commonwealth, the IV-D agency shall file the complaint in the probate and family court which issued the order that the complaint seeks to modify. If the order that the complaint seeks to modify was issued by the Boston municipal court or by a district court of the commonwealth, or by a court or administrative agency of competent jurisdiction of another state and a court of the commonwealth would have jurisdiction to modify the order pursuant to chapter 209D, the IV-D agency shall file the complaint in the probate and family court located in the county in which one of the parents and the child reside or, if the child resides with neither parent, where the child resides. The IV-D agency shall provide to the parties by first class mail a copy of the modified order entered by the court, and shall enforce the order as provided by this chapter.

(d) If the IV-D agency elects to conduct the review under paragraph (1) of subsection (a), and the IV-D agency determines that there is a variation between the amount of the existing order and the amount that would result upon application of the child support guidelines, the IV-D agency may issue a notice of its intent to modify the order and proposed stipulation on the basis of financial information relating to both parties available to the agency, including tax information pursuant to chapter 62C and wage reporting information pursuant to chapter 62E, in accordance with such guidelines. The notice shall identify the sources of the financial information relating to the parties that serves as the basis for the calculation of the amount of support in the proposed stipulation.

(e) If the IV-D agency elects to conduct the review under paragraph (2) or (3) of subsection (a), the IV-D agency shall issue a notice to the obligor and individual obligee of its intent to modify the order and proposed stipulation. If the IV-D agency conducts the review under said paragraph (2) of said subsection (a), the notice shall specify the cost of living formula. If the IV-D agency conducts the review under said paragraph (3) of said subsection (a).

(f) The notice pursuant to subsection (b) shall specify the threshold for modification and shall identify the sources of the financial information relating to the parties, including tax information pursuant to chapter 62C and wage reporting information pursuant to chapter 62E that serves as the basis for the calculation of the amount of support in the proposed stipulation.

(g) Any modification of an order initiated by the IV-D agency within the three-year cycle, or such shorter cycle as the commissioner of revenue may by regulation determine, as provided in subsection (a), shall be made without a requirement for proof or showing of a change in circumstances by either parent or by the IV-D agency. In the case of a request for review and, if appropriate, a modification, made by a parent or the IV-D agency outside the three-year cycle, or such shorter cycle as the commissioner of revenue may by regulation determine, the IV-D agency shall review and, if the requesting party demonstrates a substantial change in circumstances, file a complaint to modify the order in accordance with the child support guidelines and any threshold for application of the child support guidelines to modifications shall apply.

(h) The IV-D agency shall provide notice not less than once every three years to the parents subject to the order informing the parents of their right to request the IV-D agency to review and, if appropriate, modify the order as set forth herein. The notice may be included in the order of support.

(i) This section shall not apply to support orders in cases not receiving IV-D services.

SECTION 78. Section 4 of said chapter 119A, as so appearing, is hereby amended by striking out, in line 1, the word "The" and inserting in place thereof the following word:-

(a) The.

SECTION 79. Said section 4 of said chapter 119A, as amended by section 53 of chapter 19 of the acts of 1997, is hereby further amended by striking out the third to eighth sentences, inclusive, and inserting in place thereof the following:- The IV-D agency shall have in operation a single statewide automated data processing information retrieval system which has the capability to perform the tasks specified by Title IV, Part D of the Social Security Act. The automated system shall include a registry, which shall be known as the "state case registry", that contains records with respect to each case in which IV-D services are being provided by the IV-D agency pursuant to Title IV, Part D of the Social Security Act; and with respect to all other cases, including cases for which the IV-D agency only collects and disburses income withholding payments, each support order established or modified in the commonwealth on or after October 1, 1998. Such records for all cases shall use standardized data elements for both parents, such as names, social security numbers, dates of birth and other such information as the IV-D agency deems appropriate or as the federal secretary of health and human services may require. Each case record in the state case registry with respect to which IV-D services are being provided and with respect to which a support order has been established shall include a record of the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue under the order; any such amounts collected; the distribution of such collected amounts; the date of birth, and beginning not later than October 1, 1999, the social security number of each child for whom the order requires the provision of support; and the amount of any lien imposed pursuant to section 6.

The IV-D agency shall promptly establish and update, maintain, and regularly monitor case records in the state case registry with respect to which IV-D services are being provided on the basis of information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support, information obtained from comparison with federal, state, or local sources of information, information on support collections and distributions, and any other relevant information. With respect to all other cases in the state case registry which are not receiving IV-D services, including cases for which the IV-D agency only collects and disburses income withholding payments, the IV-D agency shall update the information required by this section upon provision of such information by the court or the parties.

Each party to any paternity or child support proceeding, whether or not a recipient of IV-D services, is required, subject to privacy and safety safeguards as provided in section 5A, to file with the state case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court shall deem due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the state case registry.

(b) The IV-D agency shall use the automated system required by this section to extract information from, to share and compare information with, subject to section 5A of this chapter, section 6103 of the Internal Revenue Code of 1986 and section 21 of chapter 62C, and to receive information from other data bases and information comparison services, in order to obtain or provide information necessary to enable the IV-D agency or other state or federal agencies to carry out the requirements of Title IV, Part D of the Social Security Act. Such information comparison activities shall include: (1) furnishing, and updating as necessary, to the Federal Case Registry of Child Support Orders information on child support cases recorded in the state case registry, including notification of expiration of orders; (2) exchanging information with the Federal Parent Locator Service; (3) exchanging information with other agencies of the state, including the wage reporting and financial institution match system of the department of revenue, and agencies of other states administering programs funded under Title IV, Part A, of the Social Security Act, programs operated pursuant to Title XIX of the Social Security Act, and other programs designated by the federal Secretary of Health and Human Services; and (4) exchanging information with other agencies, authorities, commissions, courts, counties, cities and towns of the state, companies authorized to issue policies of insurance pursuant to chapter 175, pension or retirement plans, agencies of other states, and interstate information networks, as necessary and appropriate to carry out, or assist other states to carry out, the purposes of the Social Security Act.

(c) The IV-D agency shall use the automated system to the maximum extent feasible, to implement expedited administrative procedures as required by this chapter and Title IV, Part D of the Social Security Act and to assist and facilitate the collection and disbursement of support payments through the state disbursement unit as provided in section 5, through the performance of functions, including transmission of orders and notices to employers and other debtors for the withholding of income within two business days after receipt of notice of, and the income source subject to, such withholding, from a court, another state, an employer, the Federal Parent Locator Service, or another source recognized by the state, and using uniform formats as prescribed by the federal Secretary of Health and Human Services; ongoing monitoring to promptly identify failures to make timely payment of support; and automatic use of enforcement procedures where payments are not timely made. In cases receiving IV-D services, the IV-D agency shall provide reports to the obligor and the obligee

of the amounts of payments received and how such payments were distributed as required by Title IV, Part D of the Social Security Act.

SECTION 80. Section 5 of said chapter 119A, as amended by section 55 of said chapter 19 of the acts of 1997, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

(a) The IV-D agency shall establish and operate a unit, which shall be known as "the state disbursement unit", for the collection and disbursement of payments under support orders in all cases being enforced by the IV-D agency and, on and after October 1, 1998, in all cases not receiving IV-D services in which the income of the obligor is subject to withholding pursuant to section 12; provided, however, that with respect to cases not receiving IV-D services, the IV-D agency shall be required only to collect and disburse payments and to update the state case registry based on information provided by the parties or the court, and shall not be required to enforce such orders or to take any other action unless the obligee or obligor files an application for IV-D services with the IV-D agency as provided in section 2. The state disbursement unit shall be operated directly by the IV-D agency or by a contractor responsible directly to the IV-D agency, and shall distribute collected amounts on behalf of the obligee, whether or not a recipient of public assistance, in accordance with Title IV, Part D of the Social Security Act. The state disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures for receipt of payments from parents, employers, other states, and any other source, and for disbursements to custodial parents and other obligees, the department of transitional assistance, the department of social services, and the agencies of other states; for accurate identification of payments; to ensure prompt disbursement of the obligee's share of any payment; and to furnish any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent; provided, however, that with respect to cases not receiving IV-D services for which the IV-D agency only collects and disburses income withholding payments, the state disbursement unit shall not be required to convert and maintain in automated form records of payments kept for any period prior to October 1, 1998, or before such income withholding order was made payable to the IV-D agency. The state disbursement unit shall distribute all amounts payable within two business days after receipt from the employer or other source of periodic income, if sufficient information identifying the obligor and the obligee is provided; except that the state disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal requesting an administrative or judicial review pursuant to section 17 with respect to such arrearages. Whenever the department of transitional assistance notifies the IV-D agency that it has terminated public assistance payable to an obligee, said IV-D agency shall distribute support payments collected by the IV-D agency to the obligee in accordance with this subsection, until said IV-D agency is notified by the department of transitional assistance that such obligee is again receiving public assistance.

SECTION 81. Said section 5 of said chapter 119A, as amended by section 55 of chapter 19 of the acts of 1997, is hereby further amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:-

(b) Whenever the IV-D agency closes a child support case in accordance with Part D of Title IV of the Social Security Act and the regulations promulgated thereunder because the whereabouts of the obligee are unknown, the IV-D agency shall direct the obligor, and any employer or other person remitting child support payments on behalf of the obligor, to cease remitting such payments to the IV-D agency. Thereafter the IV-D agency may, in accordance with regulations promulgated under this chapter, transfer the undisbursed payments to the department of transitional assistance to reimburse the commonwealth for arrears due for any period that public assistance was provided to the obligee or may return to the obligor any payments received by it that cannot be disbursed to the obligee because such obligee's whereabouts are unknown. The return of a child support payment to an obligor hereunder shall not affect the underlying child support obligation. The IV-D agency shall maintain any undisbursed payments, along with any payments that are unidentifiable as to either the obligee or the obligor, in the child support trust fund payments account for three years and shall attempt to locate or identify such obligee or obligor. If, at the expiration of such time the IV-D agency has been unable to locate the obligee on whose behalf the payments were remitted or has not transferred the payments to the department of transitional assistance or cannot locate the obligor in order to return the payments or has not identified the obligor or obligee of the payments and the payments remain undisbursed or unidentified, the IV-D agency may expend such funds on public awareness about teenage pregnancy, out-of-wedlock births, paternity establishment, child support and domestic violence. Such public education shall consist of efforts to provide the public, or groups within the public, with information directed specifically at preventing teenage pregnancies and pregnancies from parents not married to each other encouraging paternity establishment, including voluntary acknowledgment of parentage, promoting responsibility for child support obligations, and protecting the confidentiality of domestic violence victims receiving IV-D services. Expenditures of such funds for such purposes shall be in addition to and shall not replace existing local, state, or federal funding related to the same purposes.

(c) The IV-D agency shall notify the obligee upon termination of public assistance of his eligibility to continue to receive IV-D services, and, unless requested by the obligee to terminate IV-D services, the IV-D agency shall continue to provide such services subject to the same conditions and on the same basis as in the case of other individuals to whom IV-D services are furnished, except that an application or other request to continue such IV-D services shall not be required of such a family.

SECTION 82. Said chapter 119A, is hereby further amended by inserting after said section 5, as so amended, the following two sections:-

Section 5A. (a) Personal data collected and maintained by the IV-D agency shall not be a public record under chapter 66 and access to this data shall be available only to employees of the IV-D agency and its contractors only to the extent reasonably necessary for the performance of said contractors duties; provided, however, that the IV-D agency may

disclose such data for purposes connected with establishing paternity, establishing, modifying or enforcing child support obligations pursuant to this chapter and Title IV, Part D of the Social Security Act; and provided further, that subject to subsection (b), section 5B and section 21 of chapter 62C, the IV-D agency may disclose personal data-

(1) to any state or federal public assistance program or to the IV-D agency of another state for purposes connected with the administration of such program or of the child support enforcement program, as authorized by Title IV, Part D of the Social Security Act and by the secretary of the federal department of health and human services;

(2) for the purpose of conducting information comparisons pursuant to section 4;

(3) to persons authorized to receive information from the Federal Parent Locator Service established pursuant to Title IV, Part D of the Social Security Act;

(4) as provided in section 21 of chapter 62C, section 8 of chapter 62E, and section 15D of chapter 22, to the director of the bureau of special investigations for purposes directly connected with detecting and preventing fraud in any assistance program administered by the department of transitional assistance or any program administered by the department of social services;

(5) to the department of social services for purposes directly connected with an investigation under section 51B of chapter 119 or proceedings related to termination of parental rights or adoption;

(6) as provided in section 10 of chapter 62D, for the purpose of setoff debt collection pursuant to the provisions of said chapter 62D;

(7) to a person authorized in writing by the parent or, in the case of the child, by the custodial parent or legal guardian of the child, to receive such personal data;

(8) for purposes directly connected to obtaining health care coverage for a child receiving IV-D services, to an employer or provider of health care coverage or to the obligor;

(9) in the case of personal data about an individual parent, to that parent or, in the case of personal data about the child, to the custodial parent or legal guardian of the child.

Before disclosing personal data pursuant to this section, the IV-D agency may require the person or agency requesting such data to verify that such data is required for a purpose permitted by this section and that such data will be used solely for such purpose. The IV-D agency shall limit disclosure to the specific data required by the person or agency to carry out a purpose permitted by this chapter. For the purposes of this chapter, "personal data" shall have the same meaning as provided in section 1 of chapter 66A.

(b) The IV-D agency shall safeguard personal data if the IV-D agency is provided with reasonable evidence of a risk of harm. A state agency, court, IV-D agency of another state, obligor, obligee, and such other persons or entities as the IV-D agency may specify may provide the IV-D agency with reasonable evidence of a risk of harm in such manner as the IV-D agency may require. The IV-D agency shall not be required to safeguard personal data for longer than two years unless the IV-D agency is provided with reasonable evidence of a continued risk of harm in such manner as the IV-D agency may require. The IV-D agency shall notify individuals whose personal data is safeguarded under this section that

in order for the safeguards to remain in effect, such individuals must provide the IV-D agency every two years with reasonable evidence of a continued risk of harm. For the purposes of this section, "reasonable evidence of a risk of harm" shall mean reasonable evidence that the release of information may result in physical harm to the parent or child, that the release of information may result in emotional harm to the parent or child which would significantly reduce the parent's capacity to care for the child, or would significantly reduce the parent or child's ability to function adequately, or that a protective order or restraining order has been issued on behalf of the parent or the child pursuant to section 18 or 34B of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A, or section 15 or 20 of chapter 209C, or similar law of another jurisdiction.

If the IV-D agency is provided with reasonable evidence of a risk of harm, the IV-D agency, its employees and its contractors shall not disclose any personal data that could otherwise be disclosed pursuant to subsection (a) about the location of a parent or child, including residential address, telephone number, and name, address and telephone number of employer, and shall not disclose the social security number of a parent or child; provided, however, that such personal data may be shared by and between employees of the IV-D agency and its contractors; provided further that the IV-D agency may disclose such personal data to the Federal Parent Locator Service, to a court or agent of a court that is authorized to receive information from the Federal Parent Locator Service established pursuant to Title IV, Part D of the Social Security Act, to the department of transitional assistance, to the department of social services for purposes directly connected with an investigation under section 51B of chapter 119 or proceedings related to termination of parental rights or adoption, to a person authorized to receive such personal data by the parent or, in the case of the child, by the custodial parent or legal guardian of the child; provided further, that the IV-D agency may disclose the social security number of a child receiving IV-D services for purposes directly connected to obtaining health care coverage for such child to an employer or provider of health care coverage.

If the IV-D agency is provided with reasonable evidence of a risk of harm pursuant to this section, the IV-D agency shall notify the Federal Parent Locator Service established pursuant to Title IV, Part D of the Social Security Act that a risk of harm exists. Upon written request by a court or agent of a court authorized to receive information from the Federal Parent Locator Service, the IV-D agency shall release personal data, which may include location information and social security numbers, to such court or agent, as required by said Title IV, Part D of the Social Security Act; provided, however, that if the IV-D agency has been provided with reasonable evidence of a risk of harm, the IV-D agency shall notify the court or agent that the IV-D agency has received such information and that pursuant to section 5B, before making any disclosure of such personal data, the court is required to determine whether such disclosure to any other person could be harmful to the parent or child. A person or agency seeking disclosure of personal data which the IV-D agency is prohibited from disclosing because of a risk of harm, but which could otherwise be disclosed pursuant to subsection (a), may file a petition with the probate and family court pursuant to section 5B to request disclosure of such personal data.

(c) The IV-D agency shall have in effect safeguards to ensure the integrity, accuracy, and completeness of, access to, and use of data, including personal data and data in the automated system required by section 4, which shall include: (1) written policies concerning access to data by IV-D agency personnel and its contractors, and sharing of data with other persons, which permit access to and use of data only to the extent necessary to carry out the purposes of the child support enforcement program, and which specify the data which may be used for particular program purposes, and the personnel permitted access to such data; (2) systems controls to ensure strict adherence to said policies; (3) routine monitoring of access to and use of the automated system required by section 4, through methods such as audit trails, to guard against and promptly identify unauthorized access or use; (4) procedures to ensure that all personnel, including employees of the IV-D agency and its contractors, who may have or had access to or who may be or were required to use confidential program data and personal data are informed of applicable requirements and penalties, including those in this section, section 6103 of the Internal Revenue Code of 1986 and section 21 of chapter 62C, and are adequately trained in security procedures; (5) penalties, as provided in this section for willful inspection or disclosure of, or unauthorized access to, personal data; and (6) such other safeguards as the commissioner of revenue and the secretary of the federal Department of Health and Human Services may specify in regulations.

The willful inspection or disclosure of personal data, except as authorized by this section or section 5B, by any employee of the IV-D agency, its contractors, or any person obtaining unauthorized access to such data, including data stored in a computer system or computer files, while such data are in the custody of the commissioner of revenue or in the custody of any employee of the IV-D agency or its contractors is prohibited. Personal data may be inspected, and shared by and between employees of the IV-D agency in the performance of their official duties as provided in this chapter. Authorized employees of the department of revenue may disclose personal data to any employee of a contractor of the IV-D agency to the extent necessary for performance of the contracted duties of the employee. Personal data properly disclosed by employees of the IV-D agency may be inspected and shared by and between employees of a contractor of the IV-D agency in performance of their contracted duties and for the purpose for which such data was disclosed. Any violation of this section by an employee of the IV-D agency, its contractors or an officer, director or employee thereof, a person obtaining unauthorized access to personal data, or any other individual shall be punished by a fine of not more than \$1,000 with respect to each person concerning whom information has been disclosed or inspected or by imprisonment for not more than one year, or both, and by disqualification from holding office in the commonwealth for such period, not exceeding three years, as the court determines. The determination by the commissioner of revenue that an employee of the IV-D agency, or the determination by another agency head that an employee of such other agency, has made a disclosure or willful inspection of personal data that was not authorized by this section and not protected by the good faith provision of subsection (d) shall be grounds for

Chap. 64

dismissal of such employee. A violation, as determined by the commissioner of revenue, of this section by an officer, director or employee of any contractor of the commonwealth shall be grounds for prohibiting such officer, director or employee from working on a contract between the contractor and the commonwealth. A violation, as determined by the commissioner of revenue, of this section by any contractor of the commonwealth, or any officer, director or employee thereof, shall also be cause for terminating any current contract between such contractor and the commonwealth and for prohibiting such contractor from entering into any future contract with the commonwealth.

(d) Any unauthorized disclosure or unauthorized willful inspection made in a good faith effort to comply with this section shall not be considered a violation of this section.

Section 5B. A person or agency, including the IV-D agency, seeking personal data which the IV-D agency is prohibited from disclosing because of a risk of harm, but which could otherwise be disclosed pursuant to subsection (a) of section 5A, or which the Federal Parent Locator Service established pursuant to Title IV, Part D of the Social Security Act is prohibited from disclosing because the secretary of the federal Department of Health and Human Services has been notified that there is reasonable evidence of domestic violence or child abuse, may file a petition with the probate and family court where the person resides, or in the case of an agency, with the probate and family court of Suffolk county, to request disclosure of such personal data. The petition shall specify the purposes for which such personal data is required. When a petition is filed under this section, or when the court receives notice from the IV-D agency that the IV-D agency has been notified of a risk of harm pursuant to said section 5A, the court shall determine whether disclosure of personal data could be harmful to the parent or child before releasing such data to any other person or agency. In making such determination, the court shall notify the parent that the court has received a request to release personal data and shall provide a specific date by which the parent must object to release of the information and provide the basis for objection. The parent may provide such information in writing and shall not be required to appear in person to contest the release of information. The court shall also notify the IV-D agency of any petition filed pursuant to this section and the IV-D agency shall provide the court with any reasonable evidence of the risk of harm which has been provided to the IV-D agency pursuant to said section 5A; provided, however, that the IV-D agency shall not be made a party to the action, except upon good cause shown. The court may also request information directly from the Federal Parent Locator Service, from the IV-D agency of another state, and from any other source.

In determining whether disclosure of personal data could be harmful to the parent or child, the court shall consider any relevant information provided by the parent or child, any information provided by the IV-D agency or by the IV-D agency of another state, any evidence provided by the person seeking the personal data, whether the address of the parent or child has been impounded pursuant to sections 3 and 8 of chapter 209A, and any other relevant evidence, including information contained in the records of the statewide domestic violence record keeping system maintained by the office of the commissioner of probation.

Chap. 64

Documentary evidence transmitted to the court by facsimile, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission. The court may permit a party or witness to be deposed or to testify by telephone, audiovisual means, or other electronic means.

The court shall not enter an order to disclose personal data without reviewing all of the information that has been provided to the court and shall not draw an adverse inference from the failure of the parent to appear in person to contest disclosure of information. The court may enter an order (1) impounding the personal data and prohibiting any disclosure by the court or its agents, (2) permitting disclosure by the court or its agents to a specific person or persons, (3) prohibiting disclosure by the court or its agents to a specific person or persons, or (4) removing any restrictions on disclosure by the court and its agents. An order permitting disclosure of personal data may specify the purposes for which the data may be used and may prohibit a person to whom the data is disclosed from making further disclosures to any other person. The court shall notify the IV-D agency of any order entered pursuant to this section. Any person or agency who violates an order issued pursuant to this section may be held in contempt of court and subject to the penalties provided in said section 5A.

The court may disclose location information about a parent for the limited purpose of notifying the parent of a proceeding under this section or of any other proceeding in the probate and family court, provided that such information shall not be disclosed to another party unless the court issues an order pursuant to this section permitting such disclosure.

SECTION 83. Section 6 of said chapter 119A, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the words "a wage assignment" and inserting in place thereof the following words:- an order to withhold income.

SECTION 84. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "programs", in line 9, the following words:- ; use of federal administrative offset pursuant to the Debt Collection Improvement Act of 1996 31 USC 3716; use of federal program for denial, revocation, or limitation of passports; notification to consumer credit reporting agencies pursuant to section 52A of chapter 93.

SECTION 85. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "apply", in line 14, the following words:- ; petition to the probate and family court for distribution of trust income in accordance with chapter 203.

SECTION 86. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "nine D", in line 18, the following words:- or required by Title IV, Part D of the Social Security Act. The IV-D agency is further authorized, in cases where there is a support arrearage, to secure assets to satisfy the arrearage by intercepting or seizing periodic or lump-sum payments from any state or local agency or authority, including unemployment compensation, workers' compensation and other benefits not otherwise exempt, judgments, settlements, and lotteries; attaching and seizing assets of the obligor held in financial institutions; attaching any public and private pension or retirement funds as provided by this chapter and by chapter 32; and imposing liens in accordance

Chap. 64

with this section and, in appropriate cases, forcing sale of any real or personal property and distribution of proceeds. Such procedures shall be subject to due process as provided in this chapter, including an opportunity for administrative and judicial review as provided in section 17.

SECTION 87. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "review", in line 43, the following words:- under section 17, including sufficient documentation.

SECTION 88. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 44, the word "twenty-one" and inserting in place thereof the following word:- 30.

SECTION 89. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 44, the word "conduct" and inserting in place thereof the following word:- initiate.

SECTION 90. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 47, the word "twelve" and inserting in place thereof the following figure:- 4.

SECTION 91. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "property", in line 115, the following words:- , including property located outside the commonwealth and accounts as defined in section 4 of chapter 62E.,.

SECTION 92. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "section.", in line 139, the following three sentences:- With respect to a levy on securities, or a levy on shares of a mutual fund other than a money market mutual fund, the obligor may sell or repurchase such securities or shares in the ordinary and usual course of investing, but may not receive funds resulting from such sale, for a time period of up to 45 days. If during such time period the IV-D agency has not rescinded the levy, extended the time period, or notified the person or entity in possession of such securities or shares to remit funds, at the end of such time period such person shall forthwith liquidate sufficient securities or shares to satisfy the full amount of the lien and remit the liquidated funds to the IV-D agency; provided, however, that if during such time period, the obligor files a timely request for administrative review pursuant to this chapter which is not resolved prior to the end of such time period, the time period shall be extended until the final resolution of the request for administrative review; and provided further, that if a request for administrative review is resolved prior to the end of such time period, the IV-D agency may notify the person or entity in possession of such securities or shares to remit funds forthwith or that the levy is released. For the purposes of this section, the term "money market mutual fund" shall mean every regulated investment company within the meaning of section 851(a) of the Internal Revenue Code which seeks to maintain a constant net asset value of \$1 per share in accordance with section 270.2a-7 of title 17 of the Code of Federal Regulations.

Chap. 64

SECTION 93. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 178, the designation "(11)" and inserting in place thereof the following:- (c).

SECTION 94. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 179, the words "subparagraph (2) or subparagraph (4)" and inserting in place thereof the following words:- this section.

SECTION 95. Said section 6 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 180 to 181, the words "herein, seek judicial review", and inserting in place thereof the following words:- in section 17, seek judicial review within 45 days.

SECTION 96. Said chapter 119A is hereby further amended by inserting after section 6, as so appearing, the following section:-

Section 6A. (a) The IV-D agency is hereby authorized to attach payments, distributions or benefits owing to an obligor under any pension or retirement plan, as provided in this section.

(b)(1) With respect to any pension or retirement plan governed by the Employee Retirement Income Security Act, Title 29 of the United States Code, the IV-D agency may attach payments, distributions or benefits pursuant to a qualified domestic relations order, as defined in 29 USC 1056, issued by a court of competent jurisdiction or by the IV-D agency, as provided in paragraph (2).

(2) Pursuant to regulation promulgated by the commissioner, the IV-D agency may issue a qualified domestic relations order, as defined in 29 USC 1056, without the need for judicial or administrative hearing; provided, however, that the IV-D agency shall notify the obligor of the issuance of such qualified domestic relations order and of the procedures to follow under section 17 if the obligor wishes to contest such issuance on the grounds that the withholding under the qualified domestic relations order or the amount withheld is improper due to mistake of fact.

(c) With respect to all other pension or retirement plans, the IV-D agency may attach payments, distributions or benefits or execute an income withholding order under the procedures set out in sections 6 and 12, without obtaining or issuing a qualified domestic relations order as defined in 29 USC 1056.

(d) If a member of a pension or retirement plan is eligible to receive a return of accumulated total deductions under the provisions of chapter 32 or under the provisions of any general or special law and requests such return from the pension or retirement board on the prescribed form, prior to the return of such accumulated total deductions, the board shall provide to the IV-D agency the member's name, date of birth, address, and social security number. Within 15 days of receipt of such information, the IV-D agency shall notify the board if such member owes child support arrears, provided, however, that if, due to unforeseen circumstances, the IV-D agency is unable to provide such notice within 15 days, the IV-D agency shall notify the board of said unforeseen circumstances and the anticipated date by which the IV-D agency will provide such notice. If the member owes child support

Chap. 64

arrears, upon receipt of a levy from the IV-D agency on the accumulated total deductions, the board shall withhold the child support arrears from the accumulated total deductions and, unless the IV-D agency releases the levy, the board shall, within 60 days, disburse to the IV-D agency the accumulated total deductions up to the amount of the arrears.

(e)(1) With respect to any pension or retirement plan not governed by the Employee Retirement Income Security Act, Title 29 of the United States Code, upon notice by the IV-D agency to a pension or retirement board that a lien has arisen under section 6 against a member of the pension or retirement plan, and if the member has terminated service, the board shall send to the member the prescribed form to request a return of accumulated total deductions under the provisions of chapter 32 or the provisions of any general or special law.

(2) An obligor who is subject to a lien under section 6 and who is eligible to receive a return of accumulated total deductions under the provisions of chapter 32 or under the provisions of any general or special law shall sign and return to the pension or retirement plan any prescribed form required by such plan to request a return of accumulated total deductions; provided that the obligor shall also send by first class mail a copy of such completed form to the IV-D agency.

(3) If the member fails to file the prescribed form with the board within 60 days, the board shall notify the IV-D agency of such failure and whether the board has received notice that the member has become a member of any system. The IV-D agency may seek a court order for the submission of the prescribed form to request a return of accumulated total deductions. Upon request of the IV-D agency, the court shall order the member to sign and submit the prescribed form or shall appoint a special master to sign and submit such form in place of the member.

(4) Upon receipt of a levy from the IV-D agency on the accumulated total deductions, the board shall withhold any arrears owed by such obligor from the accumulated total deductions and, unless the IV-D agency releases the levy, the board shall, within 60 days, disburse to the IV-D agency the accumulated total deductions up to the amount of the arrears.

SECTION 97. Section 7 of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "assignment by sending notice of the assignment" and inserting in place thereof the following words:- withholding order or a qualified domestic relations order pursuant to the Employee Retirement Income Security Act, 29 USC 1056, by sending notice of the withholding or qualified domestic relations order.

SECTION 98. Section 8 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "agency", in line 1, the following words:- , party to a child support order or other entity.

SECTION 99. Said section 8 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "court", in line 8, the following words:- and without requiring judicial notice or hearing prior to the enforcement of such lien or order, provided that the IV-D agency, enforcement agency of another state, party or other entity seeking to enforce the lien complies with the procedural rules relating to enforcing orders or recording

Chap. 64

or serving liens that arise within the commonwealth. An order for genetic marker tests from a court or administrative agency of competent jurisdiction shall be accorded full faith and credit and shall be enforceable in the commonwealth.

SECTION 100. Section 12 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "nine C", in line 4, the following words:- and section 28 of chapter 119.

SECTION 101. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "section.", in line 6, the following two sentences:- Each such judgment or order for support shall include a provision for immediate withholding of income, as provided in paragraph (7) of subsection (b); provided, however, that such order for income withholding may be suspended, pursuant to subsection (c). Each such judgment or order for support shall also include an order for health care coverage, as provided in paragraph (6) of subsection (b), unless the obligor and obligee agree in writing that the obligee shall obtain health care coverage for his child or children or that such coverage will be provided by other means.

SECTION 102. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 11 to 16, inclusive, the words "At the discretion of the court, whenever appropriate, any order for the support of a child issued pursuant to section twenty-eight of chapter one hundred and nineteen may conform to and be enforced in accordance with the provisions of this section. For the purposes of this chapter, employer shall mean any source of periodic income paid to the obligor."

SECTION 103. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 17, the words "(b) Each" and inserting in place thereof the following words:- (b)(1) Each.

SECTION 104. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 19 and 20, the words "is a recipient of transitional assistance or who signs an application to such IV-D agency for child support services. If," and inserting in place thereof the following words:- applies for or is a recipient of IV-D services until September 30, 1998, if.

SECTION 105. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "order", in line 22, the following words:- if to be paid by withholding of income of the obligor.

SECTION 106. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "obligee.", in line 27, the following three paragraphs:-

(2) All judgments and orders of support entered in the commonwealth on or after October 1, 1998, in which support is ordered to be paid by withholding of income of the obligor, shall be made payable to the IV-D agency on behalf of the obligee.

(3) In all other cases in which support is payable by withholding income of the obligor, including cases not receiving IV-D services, payment of income withholding pursuant to such judgment or order for support shall be paid, on and after October 1, 1998,

to the IV-D agency on behalf of the obligee, notwithstanding the payee specified in the order, provided that a party or the employer notifies the IV-D agency of the amount to be withheld, including any amount to be withheld toward payment of arrearages, and provides the IV-D agency with the identifying information required by paragraph (6) of subsection (b) and a copy of the most recent order or notice of income withholding.

(4) With respect to any case in which support to be paid by withholding income is or becomes payable to the IV-D agency on behalf of the obligee under this section and such support payment was previously made payable to the obligee or another entity, the IV-D agency upon receipt of the case shall execute an order to make payments under the income withholding order payable to the IV-D agency, and shall so notify the employer, the obligor, and the obligee; provided, however, that if insufficient information identifying the obligee and the obligor has been provided to the IV-D agency, the IV-D agency shall return to the employer or other source of periodic income any payment received and shall direct such employer or other source of periodic income to provide information identifying the obligor and obligee prior to transmitting additional payments to the IV-D agency; and provided further that the IV-D agency shall not be liable to such obligor or obligee for not transmitting the payments to the obligee.

SECTION 107. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 27, the word "Such" and inserting in place thereof the following words:- (5) Any.

SECTION 108. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 30, the word "obligor" and inserting in place thereof the following word:- obligor's.

SECTION 109. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "payments.", in line 31, the following sentence:- With respect to any order for income withholding made payable to the IV-D agency, the issuing court shall provide to the IV-D agency a copy of the judgment or order for support and the order for income withholding, and shall also provide the address and social security number of the obligee, date of birth and social security number of the child and such other information as the IV-D agency requires to assist it in collecting support payments; provided, however, that such information need not be included in the order for income withholding.

SECTION 110. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "cost", in line 35, the first time it appears, the following words:- , unless the obligor and obligee agree in writing that the obligee shall obtain health care coverage for his child or children or that such coverage will be provided by other means.

SECTION 111. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the words "obligor; and", in line 36, the following words:- , if the IV-D agency is responsible for enforcing the order, require the obligor.

SECTION 112. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out the sixth and seventh sentences and inserting in place thereof

Chap. 64

the following two sentences:- For the purposes of this section, health care coverage shall be deemed available to the obligor at reasonable cost if it is available through his employer. (6) Each such judgment or order shall include a provision under which a portion of the obligor's income as defined in section 1A, shall be withheld, except as expressly limited by law, in an amount.

SECTION 113. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 46, the words "the assignment" and inserting in place thereof the following words:- any income withholding.

SECTION 114. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 48, the words "the assignment" and inserting in place thereof the following words:- income withholding.

SECTION 115. The second paragraph of subsection (b) of said section 12 of said chapter 119A, as so appearing, is hereby amended by striking out the first sentence.

SECTION 116. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 62, the word "assignment" and inserting in place thereof the following words:- income withholding.

SECTION 117. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 63, the words "assignment and this section shall apply" and inserting in place thereof the following words:- order, by any reasonable means, including by electronic means, to withhold income, without the need for judicial or administrative hearing, and this section shall apply; provided, however, that the IV-D agency shall notify the obligor that the withholding has commenced and of the procedures to follow under section 17 if the obligor wishes to contest such withholding on the grounds that the withholding or the amount withheld is improper due to mistake of fact.

SECTION 118. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 64, the words "Such assignment" and inserting in place thereof the following words:- Any withholding of income.

SECTION 119. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 65 and 66, the words "Such assignment shall also take effect immediately" and inserting in place thereof the following words:- Income withholding shall also take effect immediately, without the necessity of any judicial or administrative hearing.

SECTION 120. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 67, 75 and 77, each time it appears, the word "assignment" and inserting in place thereof, in each instance, the following words:- income withholding.

SECTION 121. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 71, the words "an immediate wage assignment" and inserting in place thereof the following words:- immediate income withholding.

SECTION 122. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 75, the words "IV-D agency" and inserting in place thereof the following word:- court.

SECTION 123. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 81, the words "an assignment" and inserting in place thereof the following words:- income withholding.

SECTION 124. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "effect", in line 82, the following word:- immediately.

SECTION 125. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 90, the word "Assignments" and inserting in place thereof the following words:- Income withholding.

SECTION 126. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 92, the words "employee changes employers" and inserting in place thereof the following words:- obligor changes employers or other source of periodic income.

SECTION 127. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employer", in line 93, the following words:- or other source of periodic income.

SECTION 128. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employment", in line 94, the following words:- or other source of periodic income.

SECTION 129. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 95, the word "assignment" and inserting in place thereof the following words:- income withholding order.

SECTION 130. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 96, the words "employer. If an assignment" and inserting in place thereof the following words:- employer or other source of periodic income. With respect to a case receiving IV-D services, if an income withholding order.

SECTION 131. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 98, the words "employer, said agency shall send the assignment" and inserting in place thereof the following words:- employer or other source of periodic income, said agency shall send the income withholding order.

SECTION 131A. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employer", in line 100, the following words:- or other source of periodic income.

SECTION 132. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employs", in line 100, the following words:- or pays.

SECTION 133. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 101, the word "If" and inserting in place thereof the following words:- With respect to a case receiving IV-D services, if.

SECTION 133A. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employment", in line 101, the following words:- or other source of periodic income.

SECTION 134. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by adding the following sentence:- Such provider shall enroll the child for whom the order for health care coverage applies and shall not suspend such coverage while it is available to the obligor unless the court which entered the original order, at the request of the obligor, determines that such coverage is not available to the obligor at reasonable cost, or otherwise creates an undue hardship upon the obligor.

SECTION 135. Subsection (d) of said section 12 of said section 119A, as so appearing, is hereby further amended by striking out the first four sentences and inserting in place thereof the following three sentences:-

With respect to a case receiving IV-D services or where an obligee applies for child support services from the IV-D agency, when the IV-D agency determines on its own information of on account of a claim in writing under the penalties of perjury that an arrearage has accrued, it shall immediately send the notice on income withholding increased by 25 per cent to the obligor's employer or other source of periodic income as specified in subsection (f) and shall send a notice to the obligor that he may, within 15 days from the date the notice is sent submit a request in writing for a hearing as to whether the income withholding should be further suspended. With respect to all other case, an obligee making a claim that an arrearage has accrued shall make the claim in writing under the penalties of perjury to the court that entered the order and the court may order that the withholding be increased by 25 per cent. The notice to the obligor shall also specify the amount to be withheld, and the procedure and grounds for further suspending the income withholding or appealing the amount of any arrearage alleged to be owed. Such notice to the obligor shall set forth that the income withholding order applies to the obligor's subsequent employers or other sources of periodic income and that the obligor is bound to notify said agency immediately when his employment or other source of periodic income changes or be subject to possible punishment for civil contempt of court or other enforcement remedies under this chapter.

SECTION 136. Said subsection (d) of said section 12 of said chapter 119A, as so appearing, is hereby further amended by adding the following sentence:- The obligor may contest an order for health care coverage by requesting that the court that issued the order determine whether such coverage is available to the obligor at reasonable cost or otherwise creates an undue hardship upon the obligor; provided, however, that the obligor shall bear the burden of proving that such coverage is not available at reasonable cost or otherwise creates an undue hardship upon the obligor; and provided further that the provider of health care coverage shall maintain coverage for the child under the order pending a modification of the order.

SECTION 137. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 135 and 136, the words "If the obligor requests a hearing, it shall be held within fifteen days from the receipt of his request," and inserting in place thereof the following sentence:- If the obligor contests income withholding, he shall, in a case receiving IV-D services, request an administrative review under section 17, or, in all other cases, seek judicial review from the court that entered the order.

SECTION 138. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 140, the word "assignment" and inserting in place thereof the following words:- income withholding order.

SECTION 139. Subsection (e) of said section 12 of said chapter 119A, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

If the court or hearing officer orders that income withholding be suspended, upon notice to the IV-D agency, said agency shall promptly notify the employer or other source of periodic income.

SECTION 140. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "notice", in line 149, the following words:- as set forth in paragraph (1),.

SECTION 141. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 155, the words "15 U.S.C.A. 1673(b)" and inserting in place thereof the following words:- the Consumer Credit Protection Act, 15 USC 1673(b).

SECTION 142. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 161, the word "assignment" and inserting in place thereof the following words:- income withholding order.

SECTION 143. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employer", in lines 162 and 164, each time it appears, the following words:- or other source of periodic income.

SECTION 144. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 163, the word "assignment" and inserting in place thereof the following words:- income withholding.

SECTION 145. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "amount", in line 165, the second time it appears, the following words:- shall be made payable to the IV-D agency on behalf of the obligee and sent to the state disbursement unit as provided in section 5 and.

SECTION 146. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "Act", in line 167, the following:- , 15 USC 1673(b).

SECTION 147. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 168, the words "may deduct from said earnings" and inserting in place thereof the following words:- or other source of periodic income may deduct from said earnings or income.

SECTION 148. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employees", in line 170, the following words:- or recipients of periodic income.

SECTION 149. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 171, the word "assigned" and inserting in place thereof the following word:- withheld.

SECTION 150. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in lines 171 to 172, the words "each employee's obligation" and inserting in place thereof the following words:- the obligation of each employee or recipient of periodic income.

SECTION 151. Subsection (f) of said section 12 of said chapter 119A, as so appearing, is hereby amended by striking out paragraphs (2) and (3) and inserting in place thereof the following two paragraphs:-

(2) The employer may not discipline, suspend or discharge an employee, or refuse to hire any individual because of an income withholding order issued pursuant to this section or because of any obligation such income withholding imposes against the employer. Any employer who violates this section shall be liable in a civil action, action for contempt or other appropriate proceeding to such employee or individual for all wages and employment benefits lost by the employee or individual from the time of the unlawful discipline, suspension, refusal to hire or discharge to the period of reinstatement, and an additional penalty of up to \$1,000.

(3)(A) If an employer or other source of periodic income fails to comply with an order of income withholding executed pursuant to this section the court may, on its own motion or upon report of the IV-D agency or other administrative agency of competent jurisdiction, or upon the motion or complaint of any party to the order of income withholding, summon the employer or other source of periodic income to appear in court and show cause why he should not be held in civil contempt for failure to obey said order. Said employer or other source of periodic income shall also be liable to the obligee in a civil action, action for contempt, or other appropriate proceeding for the full amount of the income that the employer or other source of periodic income failed to withhold or remit, and shall also be liable for a civil penalty equal to that amount or in the amount of \$500, whichever is greater, payable to the IV-D agency or to the moving or complaining party. A finding by the court, by an administrative agency of competent jurisdiction, or by the IV-D agency that the employer or other source of periodic income has failed or neglected to comply with an income withholding order executed pursuant to this section shall be prima facie evidence of the liability of such employer in such proceeding.

(B) With respect to a case receiving IV-D services, upon a finding by the IV-D agency that the employer or other source of periodic income has failed to withhold, or has withheld and failed to remit, any amount required to be withheld and remitted under this section, the IV-D agency may notify the employer or other source of periodic income of its obligation to withhold and remit pursuant to the income withholding order. Any subsequent failure to withhold and remit after the IV-D agency has sent said notice, or any failure to remit within 30 days an amount that has been withheld, shall result in an assessment by the IV-D agency against the employer or other source of periodic income of the amount subject to withholding and a penalty equal to that amount or in the amount of \$500, whichever is greater. Such employer or other source of periodic income shall have 30 days from the date

Chap. 64

of the assessment to pay the amount due to the IV-D agency under the assessment and the penalty, or to request an administrative hearing by the IV-D agency to review the assessment.

(C) In any action pursuant to subparagraphs (A) or (B), the following defenses may be raised by the entity alleged to have failed to withhold or remit support pursuant to the income withholding order:

- (i) said entity withheld and remitted the amount required by the order;
- (ii) said entity was not a source of periodic income to the obligor during the period of alleged non-compliance;
- (iii) no order to withhold support was in effect during the period of alleged non-compliance; or
- (iv) said entity had no notice of an order to withhold support during the period of alleged non-compliance.

(D) Any amount assessed under subparagraph (A) by a court in a case receiving IV-D services, and any amount assessed by the IV-D agency under subparagraph (B), shall be collected and enforced by any means authorized under this chapter for the enforcement and collection of support. Any penalty imposed under this paragraph shall not be credited against the support liability. Any employer or other source of periodic income who contests an assessment confirmed by the IV-D agency after an administrative hearing pursuant to subparagraph (B) may, after exhaustion of administrative remedies, seek judicial review pursuant to section 17 of this chapter.

SECTION 152. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "assignment", in line 193, the following words:- income withholding,.

SECTION 153. Subsection (f) of said section 12 of said chapter 119A, as so appearing, is hereby amended by striking out paragraphs (5), (6) and (7) and inserting in place thereof the following three paragraphs:-

(5) As provided in subsection (b), the employer or other source of periodic income shall send the amount required by the income withholding order to the IV-D agency within three business days of the date the employee or recipient of periodic income is paid, and shall furnish such identifying information as the IV-D agency may require, including name, telephone number and employer identification number of the employer or other source of income, and the names, addresses, and social security numbers of the obligor and, if known, of the obligee, and the amount of support attributable to each obligor and obligee. With respect to income withholding orders issued by a court or agency of competent jurisdiction of another state and sent pursuant to section 5-501 of chapter 209D, the employer or other source of periodic income shall send the amount required by the income withholding order to the state disbursement unit in such other state and shall comply with the procedural rules governing income withholding for the state where the employee or other recipient of periodic income works or receives such income.

(6) The income withholding shall begin on the first payment of income that occurs more than three days after the employer or other source of periodic income receives notice of the income withholding and shall continue until the employee leaves that employment, the recipient of periodic income no longer receives periodic income from that source, or the employer or other source of periodic income is notified by said agency that the income withholding should be terminated.

(7) With respect to a case receiving IV-D services, if the employee leaves the employment, the employer shall be responsible to notify said IV-D agency of his departure and his subsequent employer, if known, or his subsequent source of periodic income, including pension or retirement payments, if known, prior to the time that the next payment to said agency is due and, if a recipient of periodic income no longer is to receive periodic income from a source of such income, that source shall notify the IV-D agency of the termination of his receipt of periodic income from that source and, if known, his subsequent source of periodic income, prior to the time that the next payment to said agency is due. Any subsequent employer or other source of periodic income of the obligor shall, upon notice of an income withholding order, comply with the provisions of this section.

SECTION 154. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out subsection (g).

SECTION 155. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out subsections (h) and (i) and inserting in place thereof the following two subsections:-

(h) Each obligor making payments to the IV-D agency under this section shall be provided a notice describing the procedure for withholding income, including the factors triggering income withholding under subsection (c), the obligor's duty to report changes in employment, address, and other identifying information as required under section 4(c). Such notice may be provided at the time that the support order is entered.

(i) When the obligor is self-employed, income withholding shall be ordered in compliance with subsection (b) and such self-employed obligor shall be subject to the same penalties provided in this section for failure to comply with income withholding to which any other employer is subject. When income withholding cannot be obtained because the obligor has insufficient periodic income subject to attachment, the court may require that the obligor post a bond in an amount sufficient to secure the obligation of support.

SECTION 156. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 229, the word "obligations" and inserting in place thereof the following word:- Obligations.

SECTION 157. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "employee", in line 235, the following words:- and shall operate to enroll the child in the obligor's health care plan.

SECTION 158. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 275, the words "15 U.S.C.A. 1673(b)" and inserting in place thereof the following words:- the Consumer Credit Protection Act, 15 USC 1673(b).

SECTION 159. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "incurred", in line 285, the following words:- and for attorneys' fees.

SECTION 160. Said section 12 of said chapter 119A, as so appearing, is hereby further amended by striking out subsection (n).

SECTION 161. Section 13 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "and", in line 7, the second time it appears, the following words:- a judicial or administrative action to enforce said judgment may be commenced at any time; provided that said judgment.

SECTION 162. Said section 13 of said chapter 119A, as so appearing, is hereby further amended by inserting after the words "one hundred and nineteen," in line 40, the following:- 119A,.

SECTION 163. Section 14 of said chapter 119A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "information from the individuals and the entities named in this section" and inserting in place thereof the following:- from all entities and individuals in the commonwealth, including for- profit, nonprofit, and governmental employers and other sources of income or benefits, information on the employment, compensation, and benefits of any individual employed by such individual or entity as an employee, contractor, or subcontractor or of any individual to whom such individual or entity provides income or benefits. The IV-D agency shall have access, including electronic access, in the case of records maintained in electronic data bases, subject to safeguards on privacy and information security as provided in section 5A, to information, including social security numbers, contained in the following records:

(1) records of other state and local government agencies, including vital statistics records relating to marriage, birth, paternity establishment, and divorce; state and local tax and revenue records, including information on residence address, employer, income and assets; records concerning real and titled personal property; records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities; employment security records; records of agencies administering public assistance programs; records of the registry of motor vehicles; and corrections records including records of the department of youth services;

(2) certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized by section 15; and information (including information on assets and liabilities) on such individuals held by financial institutions as defined in section 4 of chapter 62E,.

SECTION 164. Subsection (a) of said section 14 of said chapter 119A, as so appearing, is hereby amended by striking out the last sentence.

SECTION 165. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 42, the words "section one hundred and seventy-two" and inserting in place thereof the following:- sections 172 and 172D.

SECTION 166. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "six", in line 46, the following words:- , and other information and data specified in section 172D of said chapter 6.

SECTION 167. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "agencies", in line 58, the following words:- , pension or retirement plan, or creditor or other entity identified on a credit report furnished to the IV-D agency; provided that the IV-D agency may, in addition, request from a creditor of an obligor or obligee the following information: amounts, nature and sources of income and assets, names and addresses of all employers and other sources of income and assets, documents or records provided by an obligor or obligee to a creditor.

SECTION 168. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 60, the word "address" and inserting in place thereof the following words:- name, social security number if available, address.

SECTION 169. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "obligee.", in line 61, the following three paragraphs:-

(d) Information to which the IV-D agency shall be entitled shall include information from the department of public health as set forth in chapter 17 relating to the records of births, deaths, and marriages of persons in the commonwealth, including name, address, social security number, and such other information as necessary for the purpose of administering the child support enforcement program, including information about any child born out of wedlock whose paternity has not been acknowledged or established within six months of birth. The IV-D agency shall use such information only for purposes of administering the child support enforcement program and shall not disclose such information, except in proceedings or other activities to establish paternity, to locate or identify obligors and obligees, and to establish, modify or enforce child support orders. The information required in this section shall be data compiled by any method or in any format, including data available through electronic means.

(e) The IV-D agency shall use information received pursuant to this section and pursuant to chapter 62E to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and as permitted by section 5A, may disclose such information to the IV-D agency of another state upon request of such agency with respect to an individual case or a data match and to any agent of the IV-D agency that is under contract with the agency to carry out the purposes of this chapter only to the extent necessary for the performance of such agent's contracted duties.

(f) Individuals, agencies or entities disclosing information to the IV-D agency under this section shall furnish such information using the method and format required by the IV-D agency. If the individual, agency or entity making disclosure is unable to furnish the information using the method and format so required, such individual, agency or entity shall

cooperate with the IV-D agency to determine another method or format by which the information may be furnished.

SECTION 170. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 68, the letter "(d)" and inserting in place thereof the following letter:- (g).

SECTION 171. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "income", in line 69, the following words:- or benefits, including health care benefits and pension benefits,.

SECTION 172. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "income", in lines 71, 74, 76, 77 and 80, each time it appears, the following words:- or benefits.

SECTION 173. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "care", in line 73, the following words:- or other.

SECTION 174. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by inserting after the word "sixty-two E", in line 87, the following words:- or to the IV-D agency under section 6A.

SECTION 175. Said section 14 of said chapter 119A, as so appearing, is hereby further amended by striking out, in line 88, the letter "(e)" and inserting in place thereof the following letter:- (h).

SECTION 176. Section 15 of said chapter 119A, as so appearing, is hereby amended by inserting before the first sentence the following seven sentences:- The IV-D agency may take testimony and proofs under oath with reference to any matter within the administrative authority of the agency and, in connection therewith, may issue subpoenas or summonses and require the attendance and testimony of witnesses and the production of books, papers, records, data and other evidence. In the case of records maintained in electronic data bases, the IV-D agency may issue a subpoena, including a subpoena in machine readable format, for access, including electronic access, to such records. In all other cases, subpoenas and summonses issued by the IV-D agency shall be served in the same manner as subpoenas or summonses issued on behalf of the commonwealth for witnesses in civil cases. All provisions of law relative to the subpoenas or summonses shall apply to subpoenas or summonses issued hereunder. Any individual, employer, agency, institution or other entity who, without reasonable cause, fails to comply with a subpoena or summons issued under this section shall be liable for a penalty and reasonable attorneys' fees to be assessed by the IV-D agency or by a court or administrative agency of competent jurisdiction, provided, that if such penalty and attorney's fees are assessed by the IV-D agency or by such other administrative agency, the individual, employer, agency, institution or other entity against whom such penalties and fees are assessed may seek judicial review of such assessment within 45 days of notice of such assessment. The amount of such penalty shall be \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and each violation thereafter. Any license held or sought by any obligor who, without reasonable cause, fails to comply with a subpoena or summons issued under this section may also be

Chap. 64

subject to revocation, suspension, or nonissuance pursuant to section 16, provided that any individual aggrieved by a final determination to so revoke, suspend or not issue a license may seek judicial review pursuant to section 17 within 45 days of notice of such final determination.

SECTION 177. Said chapter 119A is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. (a)(1) For purposes of this section, the following words shall have the following meanings:

"License", any license, permit, certificate, registration, charter, authority or any other form of permission required by law for the operation or use of property, the conduct of an activity or the carrying on of a trade or business, including, but not limited to, any professional, trade, business, occupational, commercial, recreational or sporting license or permit, driver's license, learner's permit, right to operate a motor vehicle, or certificate of motor vehicle registration.

"Licensing authority", any department, bureau, authority, division, board, commission, unit or other entity of the commonwealth, any political subdivision or agency thereof, or any city or town of the commonwealth, which issues licenses.

"Final determination of delinquency", an administrative finding by the IV-D agency that an obligor owes a child support arrearage that is subject to a child support lien under section 6 or has failed to respond to a subpoena, warrant or summons relating to a judicial or administrative proceeding regarding paternity or child support.

(2) Every licensing authority shall collect and maintain certain information, including the name, date of birth, address and social security number, for each applicant for a license and each individual to whom a license is granted or renewed. Every licensing authority shall provide to the IV-D agency the name, date of birth, address, social security number, federal identification number and other information as the IV-D agency may request regarding an applicant for a license or an individual to whom a license has been granted, including requests by electronic data matches. The agencies or entities disclosing information to the IV-D agency under this section shall furnish such information using the method and format required by the IV-D agency. If the agency or entity making disclosure is unable to furnish the information using the method and format so required, such agency or entity shall cooperate with the IV-D agency to determine another method or format by which the information may be furnished.

(b) The IV-D agency may notify in writing an obligor who owes a child support arrearage and is subject to a child support lien pursuant to section 6 of this chapter or an obligor who has failed to comply with a subpoena, warrant or summons relating to a judicial or administrative proceeding regarding paternity or child support, that unless the obligor requests, within 30 days of the date of such notice, a hearing before the department, the IV-D agency may issue a final determination of delinquency and, if the IV-D agency issues such final determination, shall notify the licensing authority to suspend, revoke or prohibit issuance or renewal of the license of the obligor. The provisions of this section shall constitute

the sole administrative remedy for an obligor to contest a final determination of delinquency and the suspension, revocation, nonissuance or nonrenewal of the obligor's license.

(c) Notwithstanding the provisions of sections 10 and 11 of chapter 30A, the department shall provide a hearing upon request by the obligor as provided in subsection (b). If the obligor has been notified that he owes a child support arrearage, the obligor must establish at the hearing that (1) no child support arrearage exists, (2) the obligor is not the individual owing the arrearage, or (3) the obligor is complying with a payment plan approved by the IV-D agency. If the obligor has been notified that he has failed to comply with a subpoena, warrant or summons, the obligor must establish at the hearing, with respect to the subpoena, warrant or summons, that he did comply, he was not properly served, or the failure to comply was due to reasonable cause. If, after hearing, the department finds that the obligor owes a child support arrearage and is subject to a child support lien or that the obligor failed to comply with a subpoena, warrant or summons relating to a judicial or administrative proceeding regarding paternity or child support and that the obligor has failed to establish any of the defenses provided herein, the IV-D agency may issue a final determination of child support delinquency and, upon issuance of such final determination, shall notify the licensing authority to suspend, revoke or prohibit issuance or renewal of the obligor's license.

(d) If the obligor signs a payment plan approved by the IV-D agency and thereafter fails to make payments in accordance with such plan and fails to show cause for such failure by requesting a hearing as provided by this section, the IV-D agency may issue a final determination of delinquency and, upon such issuance, shall notify the licensing authority to suspend, revoke or prohibit issuance or renewal of the obligor's license.

(e)(1) Notwithstanding section 14 of chapter 30A, within 45 days of the date of the notice by the licensing authority to the obligor of its action to suspend, revoke or prohibit issuance or renewal of the obligor's license, an individual who contests a final determination of delinquency by the IV-D agency, upon exhaustion of administrative remedies provided herein, may seek judicial review in the court where the child support order was issued, or which has jurisdiction to register the child support order, or which issued the subpoena, warrant or summons; provided, however, that a request for judicial review shall be made by filing a complaint against the IV-D agency and not the licensing authority and shall be accompanied by a copy of the final determination of delinquency of the IV-D agency. Upon receipt of the request for judicial review, the court shall notify the IV-D agency at least 14 days prior to any hearing. Such judicial review shall constitute the exclusive remedy for individuals who contest a final determination of delinquency as adopted or acted upon by the licensing authority under this section; provided, however, that such review shall not limit an individual's right to appeal from the decision of the court.

(2)(A) In the case of an obligor who is subject to a determination of delinquency by the IV-D agency on the basis of a child support arrearage, if the reviewing court finds that no child support arrearage exists, or that the obligor is not the individual owing the arrearage, or that the obligor is complying with a payment plan approved by the IV-D agency, the reviewing court shall order the IV-D agency to immediately notify the licensing

authority or authorities to reinstate, issue or renew the license or licenses of the obligor. The court also may order reinstatement, issuance or renewal of a license of such an obligor who is not intentionally unemployed and who is complying with an employment search supervised by the court. In the case of an obligor who is subject to a determination of delinquency by the IV-D agency on the basis of his failure to comply with a subpoena, warrant or summons, if the reviewing court finds with respect to the subpoena, warrant or summons, that the obligor (1) did comply, (2) was not properly served, or (3) failed to comply due to reasonable cause, the reviewing court shall order the IV-D agency to notify the licensing authority to reinstate, issue or renew the obligor's license, (4) any other defenses permitted by a court necessary for adjudication.

(B) The licensing authority shall reinstate, issue or renew the license of the obligor upon receipt of notice from the reviewing court or the IV-D agency if the obligor is otherwise entitled thereto.

(f) If an obligor whose license has been suspended, revoked or prohibited from being issued or renewed thereafter pays his child support arrearage in full, or complies with a payment plan with the IV-D agency, or complies with the subpoena, warrant or summons which was the basis for the final determination of delinquency, the IV-D agency shall notify the licensing authority that it shall reinstate, issue or renew the license of the obligor if the obligor is otherwise entitled thereto.

SECTION 178. Section 17 of said chapter 119A, as so appearing, is hereby amended by inserting after the word "herein", in line 17, the following words:- and within 45 days of such determination.

SECTION 179. Said section 17 of said chapter 119A, as so appearing, is hereby further amended by adding the following sentence:- Appeals from a decision of a court pursuant to this section may be made in the same manner as other judicial appeals.

SECTION 180. Section 130 of chapter 127 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- In every case, such terms and conditions shall include payment of any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the prisoner and the IV-D agency as set forth in chapter 119A, provided, however, that the board shall not revise, alter, amend or revoke any term or condition related to payment of child support unless the parole permit itself is revoked.

SECTION 181. Section 46A of chapter 152 of the General Laws, as so appearing, is hereby amended by inserting after the word "given", in line 39, the following words:- or any other nonperiodic compensation is made pursuant to this chapter.

SECTION 182. Said section 46A of said chapter 152, as so appearing, is hereby further amended by inserting after the word "settlement", in line 41, the following words:- or other nonperiodic compensation.

SECTION 183. Said section 46A of said chapter 152, as so appearing, is hereby further amended by inserting after the word "sum", in line 44, the following words:- or other nonperiodic compensation.

SECTION 184. The second paragraph of said section 46A of said chapter 152, as so appearing, is hereby amended by adding the following two sentences:- Such direct payment shall be made before payment of any claim of the department of transitional assistance and any claim of the division of medical assistance. The provisions of sections 6 and 17 of chapter 119A shall constitute the sole remedy for an employee to contest a lien for past due child support.

SECTION 185. Said section 46A of said chapter 152, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

When a lump sum settlement or award is proposed or any other nonperiodic compensation is made or proposed pursuant to this chapter and the employee and the lienholder are unable to agree on a fair and reasonable amount to discharge a lien or claim filed pursuant to this section against the lump sum settlement or award provisions of this section or against any other nonperiodic compensation pursuant to this chapter, the reviewing board shall have the right to determine the fair and reasonable amount to be paid out of the lump sum settlement, award or other nonperiodic compensation to discharge the lien; provided, however, that in determining what amount is fair and reasonable, the reviewing board shall give primary consideration to the interests of the children of the employee in receiving past due child support and the public policy of the commonwealth that children shall be maintained, as completely as possible, from the resources of their parents, as provided in section 1 of chapter 119A; and, provided further, that if after payment of any attorneys' fees and any claim of the IV-D agency, the remaining amount of the award or lump sum or other nonperiodic compensation is insufficient to satisfy in full any competing claim of the department of transitional assistance and the division of medical assistance, the department and the division each shall be entitled to its respective pro rata share of such award or lump sum or other nonperiodic compensation. Upon the payment of such sums as found by the reviewing board to be fair and reasonable, the lien or claim against the award, lump sum or other nonperiodic compensation shall be discharged. In no event shall the reimbursement exceed the amount of the award or lump sum or other nonperiodic compensation.

SECTION 186. Chapter 175 of the General Laws is hereby amended by striking out section 24D, as so appearing, and inserting in place thereof the following section:-

Section 24D. (a) Prior to making any payment equal to or in excess of \$500 to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to chapter 175 shall exchange information with the IV-D agency, as set forth in chapter 119A, to ascertain whether such claimant owes past due child support to the commonwealth or to an individual to whom the IV-D agency is providing services, and is subject to a child support lien pursuant to section 6 of said chapter 119A. To determine whether a claimant owes past due child support, the company shall either provide the IV-D agency with information about the claimant, or examine information made available by the IV-D agency and updated not more than once a month. If the company elects to provide the

Chap. 64

IV-D agency with information about such claimant, the company shall provide to the IV-D agency, no less than 10 business days prior to making payment to such claimant, the claimant's name, address, date of birth, and social security number as appearing in the company's file, and such other information appearing in the company's file as the commissioner of revenue may require by regulation in consultation with the commissioner of insurance. The company shall use a method and format prescribed by the commissioner of revenue; provided, however, that if the company is unable to use a method and format prescribed by the commissioner of revenue, such company shall cooperate with the IV-D agency to identify another method or format, including submission of written materials. If the company elects to examine information made available by the IV-D agency and such claimant owes past due child support and is subject to a lien, the company shall notify the IV-D agency, no less than ten business days prior to making payment to such claimant, of the claimant's name, address, date of birth, and social security number as appearing in the company's file, and such other information appearing in the company's file as the commissioner of revenue may require by regulation in consultation with the commissioner of insurance, using a method and format prescribed by the commissioner of revenue; provided, however, that the company may remit to the IV-D agency the full amount of the lien or the full amount otherwise payable to the claimant at the time that it so notifies the IV-D agency at any time prior to making payment to the claimant, without regard to the ten business day period. If, at any time prior to payment, the IV-D agency notifies the company of its child support lien against such claimant by giving the company a notice of levy pursuant to section 6 of said chapter 119A, the company shall withhold from the payment the amount of past due support as set forth in the notice of levy and shall provide such amount to the IV-D agency for disbursement to the obligee. The child support lien shall encumber the right of the claimant to payment under the policy and the company shall disburse to the claimant only that portion of the payment, if any, remaining after the child support lien has been satisfied. For the purposes of this section, the word "claimant" shall mean an individual who files a claim under any policy of insurance governed by this chapter, or a beneficiary under a life insurance or annuity policy.

(b) This section shall not apply to that portion of a claim resulting in payments on behalf of the claimant issued to a third party where there is documentation showing that the third party has provided or agreed to provide the claimant with a benefit or service related to the claim including, but not limited to, the services of an attorney or a medical doctor, or to any portion of a claim based on damage to or a loss of real property. The commissioner of revenue, in consultation with the commissioner of insurance, shall promulgate regulations setting forth procedures for making payment to the IV-D agency when a third party has either provided or agreed to provide goods or services to the claimant, and the insurance company cannot reasonably determine the remaining amount payable to the claimant.

(c) The provisions of the Employee Retirement Income Security Act limiting, for contracts of insurance, the amounts which may be assigned or attached in order to satisfy child support obligations shall apply to the provisions of this section.

(d) Pursuant to regulations issued by the commissioner of revenue in consultation with the commissioner of insurance, a company that knowingly fails to accurately exchange information regarding a claim to which this section applies shall be subject to a penalty assessed by the IV-D agency. A company that fails or refuses to surrender property subject to a child support lien to the IV-D agency shall be liable as provided in paragraph (7) of subsection (b) of section 6 of said chapter 119A. A company that makes a payment to the IV-D agency pursuant to this section and an insured individual on whose behalf the company makes a payment shall be immune from any obligation or liability to the claimant or other interested party arising from the payment, notwithstanding the provisions of this chapter or any other law.

(e) Information provided by the IV-D agency to a company under this section may only be used for the purpose of assisting the IV-D agency in collecting past due child support. Any individual or company who uses such information for any other purpose shall be liable in a civil action to the IV-D agency in the amount of \$1,000 for each violation.

(f) An individual making a claim governed by this section shall provide his current address, date of birth and social security number to the insurance company, upon the request of the company. Such company may inform the claimant that such request is being made in accordance with this section for the purpose of assisting the IV-D agency in enforcing child support liens arising pursuant to section 6 of chapter 119A. Any such individual who refuses to provide the information required by this section shall not receive payment on the claim, and the company that declines payment on this basis shall be exempt from suit and immune from liability under this chapter or any other chapter or in any common law action in law or equity.

(g) In the event of a state of emergency declared by the governor or the president of the United States, the commissioner of insurance may temporarily suspend the application of this section to claims made due to the conditions resulting in such state of emergency.

SECTION 187. Section 1 of chapter 198 of the General Laws, as so appearing, is hereby amended by inserting after the word "taxes", in line 8, the following words:- , child support arrears.

SECTION 188. Section 2 of chapter 201 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- If the minor is or was a recipient of any type of public assistance, the court shall notify the IV-D agency, as set forth in chapter 119A, of all proceedings relating to the appointment of a guardian for the minor and the IV-D agency shall be permitted to intervene in such proceedings on behalf of the department of transitional assistance, the department of social services, the division of medical assistance, or any other public assistance program of the commonwealth.

SECTION 189. Section 20 of chapter 207 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "The clerk or registrar shall require written notice of intention of marriage, on blanks furnished by the commissioner of public health, containing such information as is required by law and also a" and inserting in place thereof the following words:- The clerk shall require written notice

of intention of marriage, on forms furnished by the state registrar of vital records and statistics, containing such information as is required by law and also a.

SECTION 190. Said section 20 of said chapter 207, as so appearing, is hereby further amended by striking out, in lines 10 to 11, the words "by the physician certifying to the illness or by the other party." and inserting in place thereof the following words:- , or by the other party. Said forms containing the parties' written notice of intent to marry shall constitute a public record. In addition to such forms, the town clerk shall also require the parties to furnish information required for a separate report to be transmitted to the state registrar, including the social security number and residence address of both parties and such other information as may be required by state or federal law. A copy of said report shall not be retained by the town clerk nor shall it constitute a public record. The state registrar may make the information contained in said separate report available to the IV-D agency as set forth in chapter 119A and to such other state or federal agencies as may be required by state or federal law.

SECTION 191. Said section 20 of said chapter 207, as so appearing, is hereby further amended by striking out, in lines 5, 7, 19 and 22, the words "clerk or registrar" and inserting in place thereof, in each instance, the following words:- town clerk.

SECTION 192. Said section 20 of said chapter 207, as so appearing, is hereby further amended by inserting after the word "oath", in lines 16 and 21, each time it appears, the following words:- or affirmation.

SECTION 193. Section 6B of chapter 208 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:- Said complaint shall be accompanied by a statistical report, upon a form prepared by the commissioner of public health and made available through the office of the register of probate, to include the name, residence, date of birth and social security number of each of the parties, the name of the plaintiff, the number of times each of the parties had been married before, if any, the date of the marriage being dissolved, the number of children born of such marriage, if any, the name and date of birth of each such child, the number of minor children in the care and custody of the parties, if any, and such additional information as the commissioner of public health deems useful for statistical and research purposes. The state registrar may make such information available to the IV-D agency as set forth in chapter 119A and such other state or federal agencies as may be required by law.

SECTION 194. Section 28 of said chapter 208, as so appearing, is hereby amended by inserting after the first sentence the following two sentences:- In determining the amount of the child support obligation or in approving the agreement of the parties, the court shall apply the child support guidelines promulgated by the chief justice for administration and management, and there shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written

findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child.

SECTION 195. Said section 28 of said chapter 208, as so appearing, is hereby further amended by inserting after the eighth sentence the following sentence:- If the IV-D agency as set forth in chapter 119A is responsible for enforcing a case, an order may also be modified in accordance with the procedures set out in section 3B of said chapter 119A.

SECTION 196. Section 32F of chapter 209 of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) In determining the amount of the child support obligation or in approving the agreement of the parties, the court shall apply the child support guidelines promulgated by the chief justice for administration and management, and there shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child.

SECTION 197. Subsection (e) of said section 32F of said chapter 209, as so appearing, is hereby further amended by adding the following sentence:- If the IV-D agency is responsible for enforcing the case, an order may also be modified in accordance with the procedures set out in section 3B of chapter 119A.

SECTION 198. Section 37 of said chapter 209, as amended by section 3 of chapter 77 of the acts of 1997, is hereby further amended by inserting after the first sentence the following two sentences:- In determining the amount of the child support obligation or in approving the agreement of the parties, the court shall apply the child support guidelines promulgated by the chief justice for administration and management, and there shall be a rebuttable presumption that the amount of the order which would result from the application of the guidelines is the appropriate amount of child support to be ordered. If, after taking into consideration the best interests of the child, the court determines that a party has overcome such presumption, the court shall make specific written findings indicating the amount of the order that would result from application of the guidelines; that the guidelines amount would be unjust or inappropriate under the circumstances; the specific facts of the case which justify departure from the guidelines; and that such departure is consistent with the best interests of the child.

SECTION 199. The first paragraph of said section 37 of said chapter 209, as so appearing, is hereby amended by inserting after the seventh sentence the following sentence:-

Chap. 64

If the IV-D agency is responsible for enforcing the case, an order may also be modified in accordance with the procedures set out in section 3B of chapter 119A.

SECTION 200. Said section 37 of said chapter 209, as so appearing, is hereby further amended by inserting after the word "insurance", in line 53, the following words:- or other health coverage.

SECTION 201. Said section 37 of said chapter 209, as so appearing, is hereby further amended by inserting after the word "organization", in line 54, the following words:- , or has health insurance or other health coverage available to him at a reasonable cost,.

SECTION 202. Said section 37 of said chapter 209, as so appearing, is hereby further amended by inserting after the word "child", in line 58, the following words:- or obtain coverage for the child.

SECTION 203. Said section 37 of said chapter 209, as so appearing, is hereby further amended by inserting after the word "to", in line 68, the following word:- be.

SECTION 204. Section 3 of chapter 209A of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the word "guidelines;" and inserting in place thereof the following words:- guidelines. Each judgment or order of support which is issued, reviewed or modified pursuant to this chapter shall conform to and shall be enforced in accordance with the provisions of section 12 of chapter 119A;.

SECTION 205. Section 1 of chapter 209C of the General Laws, as so appearing, is hereby amended by inserting after the word "an", in line 6, the following words:- acknowledgment or.

SECTION 206. Said chapter 209C is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. Paternity may be established by filing with the court, the clerk of the city or town where the child was born or the registrar of vital records and statistics an acknowledgment of parentage executed by both parents pursuant to section 11 or pursuant to an action to establish paternity filed pursuant to this chapter; provided, however, that if a judgment or finding of paternity has been issued by a court or administrative agency of competent jurisdiction under the law of another state or foreign country or if both parents executed a voluntary acknowledgment of parentage in accordance with the law of another state or foreign country, such judgment, finding or voluntary acknowledgment shall be accorded full faith and credit and paternity shall not be relitigated. Upon receipt of an acknowledgment of paternity, the clerk of such city or town shall forward the original acknowledgment to said registrar as provided in chapter 46. Upon receipt of an acknowledgment of parentage or upon an adjudication of paternity under this chapter, the court shall transmit to the registrar of vital records and statistics a certified copy of the acknowledgment or order establishing paternity, together with such statistical information as said registrar may require, upon such form and in such format as designated by said registrar, which shall include the name, residence, date of birth, place of birth and social security number of each of the parties and the child, the sex of the child, and such additional information as the commissioner of public health deems useful for statistical and research purposes. Actions to establish support obligations or for custody or visitation rights may also

be filed pursuant to this chapter.

SECTION 207. Section 3 of said chapter 209C, as so appearing, is hereby amended by inserting after the word "department", in line 16, the following words:- in the county where the child resides.

SECTION 208. Said section 3 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "agency", in line 23, the following words:- as set forth in chapter 119A.

SECTION 209. Said section 3 of said chapter 209C, as so appearing, is hereby further amended by striking out, in lines 37 to 39, inclusive, the words "to the probate and family court department by any party or by the IV-D agency as set forth in chapter one hundred and nineteen A" and inserting in place thereof the following words:- by any party or by the IV-D agency as set forth in chapter 119A to the probate and family court department in the county where the child resides or, if the child does not reside in the commonwealth and a court of the commonwealth has jurisdiction under chapter 209D, in the county where one of the parents resides.

SECTION 210. Section 5 of said chapter 209C, as so appearing, is hereby amended by inserting after the word "child", in line 4, the following words:- , whether a minor or not.

SECTION 211. Said section 5 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 12, the words "by the department of public welfare" and inserting in place thereof the following words:- by the IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance the department of social services, the division of medical assistance or any other public assistance program of the commonwealth.

SECTION 212. Said section 5 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "complaints", in line 15, the following words:- to establish paternity.

SECTION 213. Said section 5 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Voluntary acknowledgments of parentage may be executed by the mother and the putative father, whether either or both is a minor, and may be registered pursuant to section 11 only if the signatures of the mother and the father are notarized. If the mother of the child was or is married and the child's birth occurs during the marriage or within 300 days of its termination by divorce, a voluntary acknowledgment of parentage naming the putative father may be executed by the mother and the putative father only if the mother and the person who was the spouse of the mother at the time of the child's birth or conception sign an affidavit denying that the spouse is the father of the child; provided, however, that where the marriage has been terminated by annulment or by the death of either spouse, paternity of the putative father may only be established by filing a complaint to establish paternity as provided in this chapter. A mother and a putative father signing a voluntary acknowledgment of parentage at the hospital or thereafter at the office of the city or town clerk as part of the birth registration process pursuant to section 3C of chapter 46, with the department of transitional

Chap. 64

assistance, with the IV-D agency set forth in chapter 119A, with any agency designated by the federal Secretary of Health and Human Services or with any official of a court shall receive notice orally, or through the use of video or audio equipment, and in writing of alternatives to signing the acknowledgment, including the availability of genetic marker testing, as well as the benefits and responsibilities with respect to child support, custody and visitation that may arise from signing the acknowledgment, and subsequently filing the acknowledgment with the court or with the registrar of vital records and statistics as provided in this chapter.

SECTION 214. Said section 5 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 39, the words "department of public welfare" and inserting in place thereof the following words:- IV-D agency as set forth in chapter 119A on behalf of the department of transitional assistance, the department of social services, the division of medical assistance or any other public assistance program.

SECTION 215. Said section 5 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 41, the word "department" and inserting in place thereof the following words:- IV-D agency.

SECTION 216. Section 6 of said chapter 209C, as so appearing, is hereby amended, in line 25, by inserting before the words "with his consent", the following words:- with respect to a child born before April 13, 1994,.

SECTION 216A. Section 8 of said chapter 209C, as so appearing, is hereby amended by inserting after the second sentence the following sentence:- For good cause shown, the court may set aside an entry of default and, if a judgment has been entered, may likewise set it aside in accordance with rule 60(b) of the Massachusetts Rules of Domestic Relations Procedure.

SECTION 217. Said section 8 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "father", in line 9, the following words:- or mother.

SECTION 218. Said section 8 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 9, the word "registration" and inserting in place thereof the following words:- filing of a voluntary acknowledgment.

SECTION 219. Said section 8 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 13, the words "public welfare" and inserting in place thereof the following words:- transitional assistance, the department of social services, the division of medical assistance or any other public assistance program.

SECTION 220. Said section 8 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 14, the word "department" and inserting in place thereof the following words:- IV-D agency as set forth in chapter 119A.

SECTION 221. Said section 8 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 16, the word "may" and inserting in place thereof the following word:- shall.

SECTION 222. Section 9 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 19, the word "may" and inserting in place thereof the following word:- shall.

SECTION 223. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "personally", in line 20, the following words:- upon a showing that notice was served in accordance with the applicable rules of court. For good cause shown, the court may set aside an entry of default and, if a judgment has been entered, may likewise set it aside in accordance with rule 60(b) of the Massachusetts Rules of Domestic Relations Procedure.

SECTION 224. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "assistance", in line 32, the following words:- or the division of medical assistance or division of health care finance and policy.

SECTION 225. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by striking out, in lines 34 and 35 and in line 36, each time it appears, the words "department of transitional assistance" and inserting in place thereof, in each instance, the following words:- IV-D agency.

SECTION 226. Said section 9 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) If the child on whose behalf an order of support is sought is a recipient of benefits pursuant to chapter 117, 118 or 119 and the department of transitional assistance, the department of social services, the division of medical assistance or any other public assistance program has not been made a party as required by section 5, the court shall notify the IV-D agency of the order or judgment of support.

SECTION 227. Section 11 of said chapter 209C, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A written voluntary acknowledgment of parentage executed jointly by the putative father, whether a minor or not, and the mother of the child, whether a minor or not, and filed with the registrar of vital records and statistics or with the court shall be recognized as a sufficient basis for seeking an order of support, visitation or custody with respect to the child without further proceedings to establish paternity, and no judicial proceeding shall be required or permitted to ratify an acknowledgment that has not been challenged pursuant to this section. A report, prepared on an electronic system of birth registration approved by the commissioner of public health and indicating that an acknowledgment pursuant to this chapter has been executed in accordance with section 3C of chapter 46 and filed with the registrar of vital records and statistics, shall be presumed to be a sufficient basis for seeking an order of support, visitation or custody without further proceedings to establish paternity. The voluntary acknowledgment shall be attested to before a notary public and shall have the legal effect as provided in this section. Unless either signatory rescinds the acknowledgment within 60 days of the date of signing as provided in this section, the acknowledgment shall establish paternity as of the date it has been signed by such putative father and mother and shall have the same force and effect as a judgment of paternity, subject to challenge within

one year only on the basis of fraud, duress or material mistake of fact; provided, however, that if, prior to the expiration of the 60-day period, the signatory is a party to an administrative or judicial proceeding related to the child, including a proceeding to establish child support, visitation or custody, and fails to rescind the acknowledgment at the time of such proceeding, the acknowledgment shall thereafter have the same force and effect as a judgment, subject to challenge only as provided in this section. The person seeking to rescind the acknowledgment shall, within 60 days of signing the acknowledgment, file a petition in the probate and family court in the county in which the child and one of the parents resides seeking to rescind the acknowledgment, with notice to the other parent. If neither of the parents lives in the same county as the child, then such complaint shall be filed in the county where the child lives. If the child whose paternity is challenged is a recipient of public assistance and the department of transitional assistance, the department of social services, the division of medical assistance or any other public assistance program has not been made a party, or if the child is receiving child support enforcement services from the IV-D agency pursuant to chapter 119A, the court shall notify the IV-D agency. The person seeking to rescind the acknowledgment shall bear the burden of proof in such proceeding. The responsibilities of a signatory arising from the acknowledgment shall not be suspended during the pendency of such challenge unless the court so orders for good cause shown. If either party rescinds the acknowledgment in a timely fashion, the court shall order genetic marker testing and proceed to adjudicate paternity or nonpaternity in accordance with this chapter; provided, however, that the rescinded acknowledgment shall constitute the proper showing required for an order to submit to such testing; and provided further, that the rescinded acknowledgment shall be admissible as evidence of the putative father's paternity and shall serve as sufficient basis for admitting the report of the results of genetic marker tests. Upon adjudication of nonpaternity, the court shall instruct the registrar of vital records and statistics as provided in section 13 of chapter 46 to amend the birth record of the child in accordance with the order of the court.

SECTION 228. Said section 11 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "public", in line 41, the following words:- and shall include the residence addresses and social security numbers of each of the parents, the residence address of the child and, if available, the social security number of the child.

SECTION 229. Said chapter 209C is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:-

Section 13. In an action to establish paternity or in which paternity of a child is an issue, all complaints, pleadings, papers, documents or reports filed in connection therewith, docket entries in the permanent docket and record books shall be segregated and unavailable for inspection only if the judge of the court where such records are kept, for good cause shown, so orders or the person alleged to be the father is adjudicated not to be the father of the child; provided, however, that the child, the child's mother, the person adjudicated to be the father and the department of transitional assistance, the department of social services, the division of medical assistance or any other public assistance program and the IV-D agency as set forth in chapter 119A, when the child who is or was the subject of the complaint is a

recipient of public assistance or the attorney for any of them, and the department of social services, when the child who is or was the subject of the complaint is within the care and protection of the department of social services, is the subject of a petition for such care or protection pursuant to chapter 119 or is the subject of a petition to dispense with consent for adoption pursuant to subsection (b) of section 3 of chapter 210, shall have access to and the right to obtain copies of the papers, docket books and judgments in actions pursuant to this chapter. For good cause shown, which may be made ex parte or upon credible evidence, parties may file a complaint without the address, and the court shall impound a party's address by excluding it from the complaint and from all other court documents and testimony, and shall ensure that the address is kept confidential from each other party except the IV-D agency as set forth in chapter 119A.

SECTION 230. Section 14 of said chapter 209C, as so appearing, is hereby amended by inserting after the word "representative", in line 3, the following words:- or by the IV-D agency as set forth in chapter 119A on behalf of the mother.

SECTION 231. Said section 14 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "child", in line 5, the following words:- ; provided, however, that the court may order temporary support or health care coverage.

SECTION 232. Section 16 of said chapter 209C, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) Upon refusal of a witness, including a party, to testify under oath and produce evidence, the court may order such witness or party to testify under oath and produce evidence concerning all relevant facts. If a witness or party refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from such refusal.

SECTION 233. Said section 16 of said chapter 209C, as so appearing, is hereby further amended by striking out subsection (f) and inserting in place thereof the following two subsections:-

(f) Copies of bills for genetic marker tests and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, shall be admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary. Nothing in this section shall be construed to limit the right of any party to the action or the IV-D agency to summon, at its own expense, a physician, agent of a hospital or other individual for the purpose of examination with respect to such bills or to rebut the contents thereof or for any other purpose to limit the right of a party or the IV-D agency to summon any other person to testify in respect to such bills or for any other purpose.

(g) All other evidence relevant to the issue of paternity of the child, custody of a child or support of a child shall also be admissible.

SECTION 234. Section 17 of said chapter 209C, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following three sentences:- In an action under this chapter to establish paternity of a child born out of wedlock, the court shall, on a motion of a party and upon a proper showing except as pro-

vided in this section, order the mother, the child and the putative father to submit to one or more genetic marker tests of a type generally acknowledged as reliable and performed by a laboratory approved by an accreditation body designated by the federal Secretary of Health and Human Services pursuant to Title IV, Part D of the Social Security Act: An affidavit by the mother or the putative father alleging that sexual intercourse between the mother and the putative father occurred during the probable period of conception shall be sufficient to establish a proper showing. If during the probable period of conception, the mother was married to someone other than the putative father, the court may order genetic marker tests only after notice pursuant to subsection (c) of section 6 to the spouse or former spouse.

SECTION 235. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 8, the words "may, in its discretion" and inserting in place thereof the following words:- or the IV-D agency as provided in section 3A of chapter 119A may.

SECTION 236. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 12, the words "blood grouping or".

SECTION 237. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "child", in line 23, the following words:- and, upon motion of any party or on its own motion, the court shall issue a temporary order of support.

SECTION 238. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 24, the words "blood tests" and inserting in place thereof the following words:- genetic marker tests.

SECTION 239. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 28, the word "blood" and inserting in place thereof the following words:- genetic marker or other.

SECTION 240. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 29, the words "a blood" and inserting in place thereof the following words:- genetic marker test.

SECTION 241. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "admissible", in line 30, the following words:- and the court may draw an adverse inference from such refusal.

SECTION 242. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "shall", in line 31, the following words:- , in the first instance,.

SECTION 243. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 34, the words "department of public welfare" and inserting in place thereof the following words:- IV-D agency as set forth in chapter 119A.

SECTION 244. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 35, the word "department" and inserting in place thereof the following words:- IV-D agency.

SECTION 245. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "party", in line 35, the following words:- and

provided further, that if the putative father is found to be the father, the court shall order the putative father to reimburse the IV-D agency or the other party.

SECTION 246. Said section 17 of said chapter 209C, as so appearing, is hereby further amended by striking out, in line 37, the word "blood" and inserting in place thereof the following words:- genetic marker tests.

SECTION 247. Section 19 of said chapter 209C, as so appearing, is hereby amended by striking out, in line 3, the words "section 15" and inserting in place thereof the following words:- this chapter.

SECTION 248. Said section 19 of said chapter 209C, as so appearing, is hereby further amended by inserting after the word "nine D", in line 16, the following words:- , including any remedy available under chapter 119A.

SECTION 249. Section 20 of said chapter 209C, as so appearing, is hereby amended by adding the following sentence:- For cases being enforced by the IV-D agency as set forth in chapter 119A, a support order may also be modified in accordance with section 3B of said chapter 119A.

SECTION 250. Section 1-101 of chapter 209D of the General Laws, as so appearing, is hereby amended by striking out, in line 23, the words "section twelve" and inserting in place thereof the following figure:- 1A.

SECTION 251. Said section 1-101 of said chapter 209D, as so appearing, is hereby further amended by striking out clause (7) and inserting in place thereof the following clause:-

(7) "Initiating state" a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.

SECTION 252. Said section 1-101 of said chapter 209D, as so appearing, is hereby further amended by inserting after the word "state", in line 56, the second time it appears, the following words:- in which a proceeding is filed or.

SECTION 253. Said section 1-101 of said chapter 209D, as so appearing, is hereby further amended by inserting after the word "law", in line 57, the following words:- or procedure.

SECTION 254. Said section 1-101 of said chapter 209D, as so appearing, is hereby further amended by inserting after the word "Rico,", in line 65, the following words:- the United States Virgin Islands,.

SECTION 255. Clause (19) of said section 1-101 of said chapter 209D, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The term "state" shall include: (i) an Indian tribe; and (ii) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.

SECTION 256. Section 2-201 of said chapter 209D, as so appearing, is hereby amended by striking out the preceding caption and inserting in place thereof the following caption:- PART 1. EXTENDED PERSONAL JURISDICTION.

SECTION 257. Section 2-203 of said chapter 209D, as so appearing, is hereby amended by striking out the preceding caption and inserting in place thereof the following caption:- PART 2. PROCEEDINGS INVOLVING TWO OR MORE STATES.

SECTION 258. Subsection (a) of section 2-205 of said chapter 209D, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) until all of the parties who are individuals have filed written consents with the tribunal of the commonwealth for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

SECTION 259. Section 2-207 of said chapter 209D, as so appearing, is hereby amended by striking out the preceding caption and inserting in place thereof the following caption:- PART 3. RECONCILIATION OF MULTIPLE ORDERS.

SECTION 260. Said chapter 209D is hereby further amended by striking out section 2-207, as so appearing, and inserting in place thereof the following section:-

Section 2-207.

(a) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal shall control and shall be so recognized.

(b) If a proceeding is brought under this chapter and two or more child support orders have been issued by tribunals of the commonwealth or another state or by tribunals of more than one jurisdiction with regard to the same obligor and child, a tribunal of the commonwealth shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) if only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of such tribunal shall control and shall be so recognized.

(2) if more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child shall control and shall be so recognized; provided, however, that if an order has not been issued in the current home state of the child, the order most recently issued shall control and shall be so recognized.

(3) if none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of the commonwealth having jurisdiction over the parties shall issue a child support order which shall control and shall be so recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in the commonwealth, a party may request a tribunal of the commonwealth to determine which order shall control and shall be so recognized under subsection (b). The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subsection (a), (b) or (c) shall be the tribunal that has continuing, exclusive jurisdiction under section 2-205.

(e) A tribunal of the commonwealth which determines by order the identity of the controlling order under clause (1) or (2) of subsection (b) or which issues a new controlling order under clause (3) of said subsection (b) shall state in such order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy shall be subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file shall not affect the validity or enforceability of the controlling order.

(g) Any action pursuant to former chapter 273A that is pending or was previously adjudicated in the district court or the Boston municipal court department may be transferred to the probate and family court department by any party or by the IV-D agency as set forth in chapter 119A. An action shall be transferred upon the filing of the following documents with the probate and family court: (1) a copy of the petition, if any, and accompanying documents; (2) a copy of the order of the district court or Boston municipal court, if any; (3) a copy of the findings of the court, if any; (4) a copy of the financial statements submitted by the parties, if any; (5) a copy of the worksheet used to calculate the amount of the child support order pursuant to the child support guidelines, if any; and (6) a copy of the docket maintained by the district court or the Boston municipal court, if any. Once transferred, the order of the district court or the Boston municipal court shall have the same force and effect and shall be subject to the same procedures and defenses as an order of the probate and family court and may be enforced or modified in the same manner available to enforce or modify any judgment or order of the probate and family court. Upon transfer, the provisions of this chapter shall apply. Transfer of an order pursuant to this section shall not limit the use of any enforcement remedy, whether judicial or administrative, that may be available and the probate and family court shall preserve all arrears that have accrued pursuant to the order of the district or Boston municipal court departments.

SECTION 261. Section 3-301 of said chapter 209D, as so appearing, is hereby amended by striking out, in line 11, the word "Part B" and inserting in place thereof the following word:- Part 2.

SECTION 262. Said section 3-301 of said chapter 209D, as so appearing, is hereby further amended by striking out, in line 16, the word "Part A" and inserting in place thereof the following word:- Part 1.

SECTION 263. Section 3-304 of said chapter 209D, as so appearing, is hereby amended by striking out, in line 1, the word "upon" and inserting in place thereof the following words:- (a) Upon.

SECTION 264. Said section 3-304 of said chapter 209D, as so appearing, is hereby further amended by adding the following subsection:-

Chap. 64

(b) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to said act, a tribunal of the commonwealth may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

SECTION 265. Section 3-305 of said chapter 209D, as so appearing, is hereby amended by inserting after the word "mail", in lines 5 and 37, each time it appears, the following words:- or by facsimile or other electronic transmission.

SECTION 266. Section 3-306 of said chapter 209D, as so appearing, is hereby amended by inserting after the word "mail", in line 4, the following words:- , or by facsimile or other electronic transmission.

SECTION 267. Section 3-307 of said chapter 209D, as so appearing, is hereby amended by inserting after the word "mail", in lines 15 and 20, each time it appears, the following words:- , or by facsimile or other electronic transmission.

SECTION 268. Section 3-310 of said chapter 209D, as so appearing, is hereby amended by inserting after the word "employers", in line 19, the following words:- or other sources of periodic income.

SECTION 269. Section 5-501 of said chapter 209D, as so appearing, is hereby amended by striking out, in the preceding caption, the word "DIRECT".

SECTION 270. Said section 5-501 of said chapter 209D, as so appearing, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) An income withholding order issued in another state may be sent by first class mail or by facsimile or other electronic transmission to the person or entity defined as the obligor's employer under section 1A of chapter 119A or to any other source of periodic income to the obligor, without first filing a petition or comparable pleading or registering the order with a tribunal of the commonwealth.

SECTION 271. Said chapter 209D is hereby further amended by striking out the section 5-502, as so appearing, and inserting in place thereof the following six sections:- Section 5-502.

(a) Upon receipt of an income withholding order, the obligor's employer or other source of periodic income shall immediately provide a copy of the order to the obligor.

(b) The employer or other source of periodic income shall treat an income withholding order issued in another state which appears valid on its face as if it had been issued by a tribunal of the commonwealth.

(c) Except as otherwise provided in subsection (d) and section 5-503, the employer or other source of periodic income shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:

(1) the duration and amount of periodic payments of current child support, stated as a sum certain;

Chap. 64

(2) the person or agency designated to receive payments and the address to which such payments shall be forwarded;

(3) medical support whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's place of employment;

(4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal and the obligee's attorney, stated as sums certain; and

(5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer or other source of periodic income shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(1) the fee of the employer or other source of periodic income for processing an income withholding order;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) the times within which the employer or other source of periodic income shall implement the withholding order and forward the child support payment.

Section 5-503. If an obligor's employer or other source of periodic income receives multiple income withholding orders with respect to the earnings of the same obligor, the employer or other source of periodic income shall be deemed to have satisfied the terms of the multiple orders if the employer or other source of periodic income complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

Section 5-504. An employer or other source of periodic income who complies with an income withholding order issued in another state in accordance with this chapter shall not be subject to civil liability to an individual or agency with regard to the withholding of child support by the employer or other source of periodic income from the obligor's income.

Section 5-505. An employer or other source of periodic income who willfully fails to comply with an income withholding order issued by another state and received for enforcement shall be subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of the commonwealth.

Section 5-506. (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer or other source of periodic income in the commonwealth in the same manner as if such order had been issued by a tribunal of the commonwealth. The provisions of section 6-604 shall apply to such contest.

(b) The obligor shall give notice of the contest to:

(1) any support enforcement agency providing services to the obligee;

(2) each employer or other source of periodic income that has directly received an income withholding order; and

Chap. 64

(3) the person or agency designated to receive payments in the income withholding order or, if no such person or agency is designated, to the obligee.

Section 5-507. (a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of the commonwealth.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of the commonwealth to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

SECTION 272. Section 6-601 of said chapter 209D, as so appearing, is hereby amended by striking out, in the preceding caption, the word "PART A" and inserting in place thereof the following word:- PART 1.

SECTION 273. Section 6-605 of said chapter 209D, as so appearing, is hereby amended by striking out, in the preceding caption, the word "PART B" and inserting in place thereof the following word:- PART 2.

SECTION 274. Said section 6-605 of said chapter 209D, as so appearing, is hereby further amended by inserting after the word "employer", in line 22, the following words:- or other source of periodic income.

SECTION 275. Section 6-606 of said chapter 209D, as so appearing, is hereby amended by inserting after the word "mail", in line 15, the following words:- or by facsimile or other electronic transmission.

SECTION 276. Section 6-609 of said chapter 209D, as so appearing, is hereby amended by striking out, in the preceding caption, the word "PART C" and inserting in place thereof the following word:- PART 3.

SECTION 277. Said section 6-609 of said chapter 209D, as so appearing, is hereby further amended by striking out, in line 4, the words "PART A" and inserting in place thereof the following word:- PART 1.

SECTION 278. Section 6-611 of said chapter 209D, as so appearing, is hereby amended by striking out, in line 3, the words ", after notice and hearing, it" and inserting in place thereof the following words:- section 6-613 does not apply and after notice and hearing it.

SECTION 279. Subsection (a) of said section 6-611 of said chapter 209D, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of the commonwealth and each of the parties who are individuals has filed a

written consent in the issuing tribunal for a tribunal of the commonwealth to modify the support order and assume continuing, exclusive jurisdiction over such order; provided, however, that if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in the commonwealth shall not be required for the tribunal to assume jurisdiction to modify the child support order.

SECTION 280. Said section 6-611 of said chapter 209D, as so appearing, is hereby further amended by inserting after the word "state.", in line 23, the following sentence:- If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under section 2-207 establishes the aspects of the support order which are nonmodifiable.

SECTION 281. Said chapter 209D is hereby further amended by adding the following two sections:-

Section 6-613. (a) If all of the parties who are individuals reside in the commonwealth and the child does not reside in the issuing state, a tribunal of the commonwealth shall have jurisdiction to enforce and modify the issuing state's child support order in a proceeding to register such order.

(b) A tribunal of the commonwealth exercising jurisdiction under this section shall apply the provisions of this article and articles 1 and 2, and the procedural and substantive law of the commonwealth to the proceeding for enforcement or modification. The provisions of articles 3, 4, 5, 7 and 8 shall not apply.

Section 6-614. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy shall be subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file shall not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

SECTION 282. Section 34 of chapter 215 of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "for failure to obey a judgment" and inserting in place thereof the following words:- or ordering a person to participate in a program of community service for failure to obey an order or judgment.

SECTION 283. Said section 34 of said chapter 215, as so appearing, is hereby further amended by inserting after the word "served" in line 10, the following words:- or that the community service be performed.

SECTION 284. Said section 34 of said chapter 215, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

When a judge of the probate court finds that a defendant is in civil contempt for failure to obey any order or judgment of the court relative to support of a spouse or child, the judge shall issue an order for the defendant to do one or more of the following:

Chap. 64

(1) serve a sentence in jail; provided, however, that such sentence shall be stayed if the defendant purges himself of the contempt by taking such action as may be specified in the order, including one or more of the actions specified in clauses (2) to (6), inclusive;

(2) pay the full amount due under the order or judgment for support;

(3) make regular payments of current support and an additional specified amount towards arrears, pursuant to a payment schedule ordered by the court that requires payment of not less than the amount required under section 12 of chapter 119A and that meets all other requirements of said section 12 of said chapter 119A;

(4) actively seek paid employment and report at regular intervals, as specified in the order, to a probation officer on actions taken to seek employment;

(5) participate in a program of community service, as specified in the order, for up to 40 hours per week and report at regular intervals to a probation officer to present proof of participation in such program; or

(6) participate in an appropriate job readiness or job training program, as specified in the order, and report at regular intervals to a probation officer to present proof of participation in such program.

SECTION 285. Said section 34 of said chapter 215, as so appearing, is hereby further amended by adding the following paragraph:-

In addition to any other remedy available pursuant to this section or chapter 119A to enforce an order or judgment for support, if the defendant is unable to comply with an order to make current payments of support, is unemployed and is not disabled, a judge of the probate court shall order such defendant to; (i) actively seek paid employment and report at regular intervals, as specified in the order, to a probation officer on actions taken to seek employment; (ii) to participate in a program of community service for up to 40 hours per week and to report at regular intervals, as specified in the order, to a probation officer to present proof of participation in such program; or (iii) to participate in an appropriate job readiness or job training program and to report at regular intervals, as specified in the order, to a probation officer to present proof of participation in such program.

SECTION 286. Section 34A of said chapter 215, as so appearing, is hereby amended by inserting after the word "any", in line 2, the following words:- order or.

SECTION 287. Section 34B of said chapter 215, as so appearing, is hereby amended by inserting after the word "any", in line 2, the following words:- order or.

SECTION 288. Said section 34B of said chapter 215, as so appearing, is hereby further amended by inserting after the word "such", in line 5, each time it appears, the following words:- order or.

SECTION 289. The second paragraph of section 1 of chapter 279 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- In granting probation under this section, the court shall include in its terms and conditions of probation that the person convicted shall pay any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the person convicted and the IV-D agency as set forth in said chapter 119A.

Chap. 64

SECTION 290. Section 1A of said chapter 279, as so appearing, is hereby amended by adding the following sentence:- In granting probation under this section, the court shall include in its terms and conditions of probation that the person convicted shall pay any child support due under a support order, as defined in section 1A of chapter 119A, including payment toward any arrearage of support that accrues or has accrued or compliance with any payment plan between the person convicted and the IV-D agency as set forth in said chapter 119A.

SECTION 291. Notwithstanding any provision of chapter 66A of the General Laws to the contrary, the executive office of health and human services and state agencies within said executive office may submit personal data as defined in said chapter 66A to the department of revenue to establish and maintain the Massachusetts Longitudinal Database for Research in Child Support Enforcement and Social Services Programs.

Approved March 31, 1998.

Chapter 65. AN ACT RELATIVE TO VISITATION RIGHTS OF CERTAIN GRANDPARENTS.

Be it enacted, etc., as follows:

Section 39D of chapter 119 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "child", in line 11, the following words:- ; provided, however, that such adjudication of paternity or acknowledgment of paternity shall not be required in order to proceed under this section where maternal grandparents are seeking such visitation rights.

Approved April 3, 1998.

Chapter 66. AN ACT AUTHORIZING THE ESTABLISHMENT OF A MUNICIPAL INSURANCE FUND IN THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Brookline is hereby authorized to appropriate an amount not exceeding in any one year .05 per cent of its equalized valuation, as defined in section 1 of chapter 44 of the General Laws, to establish and maintain a special fund to be known as the Town of Brookline Liability Insurance Fund from which insurance premiums, property damage losses, including losses involving town owned property, and personal injury or other claims, settlements and judgments may be paid. The treasurer of said town shall be the custodian of said fund and may deposit the proceeds in national banks or invest the proceeds by deposit

Chap. 66

in savings banks, cooperative banks or trust companies organized under the laws of the commonwealth, or, invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth. Any interest or other income shall be added to and become a part of the fund.

SECTION 2. The Town of Brookline Liability Insurance Fund may be appropriated at any town meeting by a majority vote, or, if appropriated to fund a settlement not approved by the board of selectmen and town counsel, by a two-thirds vote at any town meeting.

SECTION 3. This act shall take effect upon its passage.

Approved April 3, 1998.

Chapter 67. AN ACT RELATIVE TO THE FINANCING OF A GOLF COURSE BY THE CITY OF PEABODY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 44 of the General Laws to the contrary, the maturities of bonds issued by the city of Peabody for design, development, construction and equipping of a municipal golf course, including a clubhouse and related structures, and the acquisition of land or interests in land necessary for the project, either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the city treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds shall be not later than one year from the estimated date of commencement of regular operation of the golf course, as determined by the city treasurer, and the last payment of principal shall be not later than 30 years from the date of the bonds. Project costs to be financed by the issue of the bonds may include interest incurred on the bonds and any bond anticipation notes for a period of up to two years after the date of the original borrowing or, if later, one year after the estimated date of the commencement of regular operation of the golf course, as determined by the city treasurer, and may include lease or other similar payments, if any, made by the city with respect to the site of the project for a period of up to one year after the estimated date of commencement or regular operation of the golf course, as determined by the city treasurer. The city may create and maintain, from bond proceeds or other sources of funds, such reserve, replacement, maintenance and improvement funds in connection with the golf course as it may deem necessary and prudent; provided, however, that not more than 10 per cent of the principal amount of the bonds issued for the project may be used to establish a debt service reserve fund. Any net earning derived from investment of the proceeds of the bonds may be expended by the city treasurer to pay interest on the bonds but otherwise shall

Chap. 67

be used only for construction, equipping, operation or maintenance of the golf course. Except as otherwise provided in this act, indebtedness incurred by the city for the project shall be subject to the applicable provisions of said chapter 44.

SECTION 2. The city of Peabody may establish an enterprise fund for the golf course facility and its operation, which shall be subject to the provisions of section 53F½ of chapter 44 of the General Laws; provided, however, that any available surplus in the reserve fund established under said section may be appropriated by the city for any capital project for which borrowing may be authorized under section 7 or section 8 of said chapter 44.

SECTION 3. The vote of the city council passed at the special meeting held on September 29, 1997 and approved by the mayor on September 30, 1997, authorizing bonds for the golf course project, is hereby ratified, validated and confirmed. Proceeds of the bonds issued in accordance with section 1 of this act may be used to refund any bond anticipation notes previously issued for the design, environmental permitting and other preliminary expenses relating to the golf course project.

SECTION 4. This act shall take effect upon its passage.

Approved April 3, 1998.

Chapter 68. AN ACT EXEMPTING THE CHIEF OF POLICE OF THE TOWN OF OXFORD FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.

Be it enacted, etc., as follows:

SECTION 1. The office of the chief of police of the town of Oxford shall be exempt from the provisions of chapter 31 of the General Laws.

SECTION 2. The provisions of section 1 shall not impair the civil service status of any person employed on a permanent basis in the position of chief of police of the town of Oxford on the effective date of this act.

SECTION 3. This act shall be submitted for acceptance to the voters of the town of Oxford at an annual town election in the form of the following question which shall be placed upon the official ballot to be used for the election of town officers at said election: "Shall an act passed by the general court in the year 1998 entitled 'An Act exempting the chief of police of the town of Oxford from the provisions of the civil service law', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then this act shall thereupon take full effect, but not otherwise.

Approved April 6, 1998.

Chapter 69. AN ACT AUTHORIZING THE CITY OF LEOMINSTER TO SUPPLY WATER TO CERTAIN PROPERTY LOCATED IN THE TOWN OF LANCASTER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the city of Leominster is hereby authorized to supply and sell water to the property of the American Club Management Corporation, doing business as Orchard Hills Athletic Club located in the town of Lancaster.

Approved April 9, 1998.

Chapter 70. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the city of New Bedford is hereby authorized to issue to Our Lady of Angels Band, Inc. a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of said chapter 138. Said license shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved April 9, 1998.

Chapter 71. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the city of New Bedford is hereby authorized to issue to the Centro-Luso American Club, Inc. a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Said license shall be subject to all of the provisions of said chapter 138 except said section 17.

Approved April 9, 1998.

Chapter 72. AN ACT RELATIVE TO THE ISSUANCE OF TAX BILLS IN THE CITY OF LAWRENCE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 57C of chapter 59 of the General Laws or any other general or special law to the contrary, the city of Lawrence may send out actual real estate and personal property tax bills for fiscal year 1998 after December 31, which shall be due and payable in two installments, one of which shall be due and payable 30 days after the date of mailing, and the other on May 1, 1998, after which dates if unpaid, they shall become delinquent.

SECTION 2. This act shall take effect upon its passage.

Approved April 9, 1998.

Chapter 73. AN ACT RELATIVE TO THE CAPE COD, MARTHA'S VINEYARD AND NANTUCKET REGIONAL EMPLOYMENT BOARD.

Be it enacted, etc., as follows:

The second paragraph of section 134 of chapter 5 of the acts of 1995 is hereby amended by striking out, in line 6, the word "Orleans". and inserting in place thereof the following words:- the Orleans area.

Approved April 9, 1998.

Chapter 74. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN LAND IN THE CITY OF BOSTON.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to transfer forthwith certain land owned by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations is hereby authorized and directed to sell and convey by deed, approved as to form by the attorney general, a certain parcel of land located in the city of Boston, acquired for hospital purposes, to the Forest Hills Cemetery Association to be used for cemetery purposes. Said parcel is shown as Lot A on a plan of land entitled "Subdivision Plan of Land in Boston Massachusetts, West Roxbury District Suffolk County" dated 18 January, 1995, prepared by Guenther Engineering, Inc.

SECTION 2. The consideration paid by the Forest Hills Cemetery Association for said parcel shall be the full and fair market value of the property determined by the independent appraisal, for its use as described herein. The inspector general shall review and approve said appraisal and said review shall include a review of methodology utilized for said appraisal. Said inspector general shall prepare a report for his review and file said report with the commissioner of the division of capital planning and operations for submission to the house and senate committees on ways and means and chairmen of the joint committee on state administration in accordance with section 5. Said Forest Hills Cemetery Association shall pay said consideration in accordance with the terms of the agreement.

SECTION 3. The Forest Hills Cemetery Association shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the property, or for any costs and liabilities and expenses of any nature and kind for its development, maintenance or operation. In the event said parcel of land ceases to be used at any time for the purposes contained herein, said parcel of land shall revert to the care and control of the division of capital planning and operations and any further disposition of said parcel of land shall be subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws.

SECTION 4. The sale price paid as consideration pursuant to section 2 shall be deposited in the General Fund of the commonwealth.

SECTION 5. The commissioner of the division of capital planning and operations shall, 30 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit the agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to execution.

SECTION 6. Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of capital planning and operations is hereby authorized and directed to transfer from the metropolitan district commission the control of 4.8 acres of land, more or less, in the city of Boston, not currently used for any purpose, to the department of correction, for the purpose of constructing a correctional facility as a replacement for the existing correctional facility on the grounds of the former Boston state hospital, said parcel being shown as a "Proposed Lot" on a plan entitled "Property Line Plan", prepared for the Commonwealth of Massachusetts, Division of Capital Planning and Operations, dated July 14, 1993, by Allen & Major Associates, Inc.

Approved April 9, 1998.

Chapter 75. AN ACT RELATIVE TO THE TAXATION OF SNOWMOBILES AND RECREATION VEHICLES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 64H of the General Laws is hereby amended by striking out section 26, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 26. Where a trade-in of a motor vehicle or trailer is received by a dealer in such vehicles holding a valid vendor's registration, upon the sale of another motor vehicle or trailer to a consumer or user, the tax shall be imposed only on the difference between the sales price of the motor vehicle or trailer purchased and the amount allowed on the motor vehicle or trailer traded in on such purchase. When any such motor vehicle or trailer traded in is subsequently sold to a consumer or user, the tax provided for in this chapter shall apply. For the purposes of this section, the term "motor vehicle" shall mean a self-propelled vehicle designed for use and used primarily upon the highway. The term "motor vehicle" shall also mean "snow vehicle" and "recreation vehicle" as defined in section 20 of chapter 90B.

SECTION 2. Chapter 64I of the General Laws is hereby amended by striking out section 27, as so appearing, and inserting in place thereof the following section:-

Section 27. Where a trade-in of a motor vehicle or trailer is received by a dealer in such vehicles holding a valid vendor's registration, upon the sale of another motor vehicle or trailer to a consumer or user, the tax shall be imposed only on the difference between the sales price of the motor vehicle or trailer purchased and the amount allowed on the motor vehicle or trailer traded in on such purchase. When any such motor vehicle or trailer traded in is subsequently sold to a consumer or user, the tax provided for in this chapter shall apply. For the purposes of this section, the term "motor vehicle" shall mean a self-propelled vehicle designed for use and used primarily upon the highway. The term "motor vehicle" shall also mean a "snow vehicle" and a "recreation vehicle" as defined in section 20 of chapter 90B.

SECTION 3. Section 20 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out the definition of "Snow vehicle" and inserting in place thereof the following definition:-

"Snow vehicle", a motor vehicle designed to travel over ice or snow, having a curb weight of not more than 453 kilograms or 1,000 pounds, driven by track or tracks in contact with the snow or ice and steered by a ski or skis in contact with the snow or ice.

Approved April 9, 1998.

Chapter 76. AN ACT ESTABLISHING A TRAFFIC COMMISSION IN THE CITY OF MELROSE.

Be it enacted, etc., as follows:

SECTION 1. There is hereby established in the city of Melrose, a traffic commission to consist of eight commissioners, one of whom shall be the chief of police, one of whom

shall be the superintendent of public works and one of whom shall be the chairman of the aldermanic highways committee or their designees, five resident members to be appointed by the mayor, two of whom shall be resident members of the business community and three of whom shall be resident citizen consumer members, such appointments to be ratified by the board of aldermen.

SECTION 2. The superintendent of public works shall act as the chairperson of said commission for the first year. Thereafter, the chairperson shall be chosen by election of the members of the commission on or before the first Monday of July of each year. The chairperson shall be known as the traffic commissioner. The commissioners shall receive no compensation for their services but all expenses incurred for the purposes of this act shall be paid by the city. All statutes and ordinances applicable generally to the departments of the city shall apply to the commission.

SECTION 3. When the traffic commission is first constituted, the terms of the five resident members shall be respectively: one citizen consumer member for one year, one business member for two years, one citizen consumer member for three years, one business member for four years and one citizen consumer for five years. The police chief or his designee and the superintendent of public works or his designee and the chairman of the aldermanic highways committee shall serve while in office. Any subsequent appointments shall be for a term of five years, so that the term of one appointee shall expire each year; except that an appointment to fill a vacancy shall be for the unexpired term of the member who is being replaced. Said commission shall meet quarterly on the third Wednesday of March, June, September and December with special meetings called by the chairperson when deemed necessary.

SECTION 4. The traffic commission shall have exclusive authority, except as otherwise herein provided, to adopt, amend, alter and repeal rules and regulations, not inconsistent with General Laws as modified by this act, relative to vehicular street traffic and parking in the city and to the movement, stopping or standing of vehicles on and their exclusion from, all or any street, ways, highways, roads and parkways, under the control of the city, including rules and regulations designating any way or part thereof under the control of said city as a throughway under and subject to the provisions of section 9 of chapter 89 of the General Laws and may prescribe penalties not exceeding \$200 for the violation of any rule or regulation adopted hereunder. No such rule or regulation, except such special rules and regulations as are declared by vote of said commission to be urgently required by considerations of public safety or convenience or such as are of a temporary nature and are to be effective for a period of not more than two weeks, shall take effect until published for two successive weeks in one or more newspapers published with a circulation in the city. Upon petition of 25 registered voters of the city relative to any rule or regulation adopted or proposed to be adopted under this section, said commission shall hold a public hearing thereon within ten days after the filing with said commission of such petition and final action thereon shall be determined only by vote of majority of the entire membership of said commission. Said commission shall have power to erect, make and maintain or cause

Chap. 76

to be erected, made and maintained, traffic and parking signs, signals, markings and other devices for the control of such traffic and parking in said city and for informing and warning the public as to rules and regulations adopted hereunder, subject, however to section 2 of said chapter 89. Nothing in this act shall be construed to authorize said commission to adopt any rule or regulation excluding the Massachusetts Bay Transportation Authority from any way or part thereof in which it has a route or to modify or limit any power or authority of the metropolitan district commission, or the state department of public works or the state department of public utilities or any power now vested in the mayor, board of aldermen or heads of departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

SECTION 5. All existing ordinances and regulations, relating to the control of vehicular traffic and parking shall remain in full force and effect until superseded by rules and regulations adopted by the traffic commission under this act and the adoption thereof by said commission shall not affect any act done or right accrued or penalty incurred or any suit.

Approved April 9, 1998.

Chapter 77. AN ACT RELATIVE TO THE WATER SUPPLY AND SEWER SYSTEMS OF THE TOWN OF SOUTHBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, pumping stations, force mains, filter systems, storage tanks, pipelines and appropriate interconnections that are reasonable and necessary to facilitate the transport of water, including potable water, non-potable water, effluent and return wastewater located in the town of Southbridge and owned by Millennium Power Partners, L.P. or its successors or assigns shall be exempt from local property taxation; provided, however, that said exemption shall be allowed for a period not to exceed 30 years from the effective date of this act; and provided, further, that such facilities shall be so exempt only if the owner thereof has entered into an agreement with the town manager and the board of assessors of the town of Southbridge, which board and town manager are hereby authorized to enter into such agreement for and on behalf of the town upon such terms as they deem to be in the town's best interest, whereby the owner shall make a payment in lieu of taxes. Any such payment in lieu of taxes combined with any payment for effluent shall be greater than the local property tax that the pumping stations, forced mains, filter systems, storage tanks, pipelines and appropriate interconnections would pay fully assessed.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established in the treasury of the town of Southbridge a special fund to be known as the Southbridge Debt Service Reserve Fund. Excluding the payment in lieu of taxes as set forth in section 1, all amounts paid yearly by Millennium Power Partners, L.P.

Chap. 77

or its successors or assigns for effluent under the provisions of a contract with the town of Southbridge, shall be allocated as follows: \$100,000 shall be deposited in the Water Enterprise Fund, \$100,000 shall be deposited in the Sewer Enterprise Fund and the remainder of the yearly payment shall be deposited in said Debt Service Reserve Fund. The town treasurer shall be the custodian of said Debt Service Reserve Fund and may invest amounts in said fund in accordance with the provisions of section 54 of chapter 44 of the General Laws. All earnings and income from such investments shall be added to and become a part of said fund. Amounts in said fund may be appropriated by the town council in any fiscal year to pay principal and interest on long-term debt of the town, including water and sewer enterprise fund debt, maturing, callable or due in the ensuing fiscal year. The amount to be appropriated shall be submitted to the town council by the town manager under the provisions of section 9-2-1 of the Southbridge town charter. The town council may also appropriate funds from any source into the Debt Service Reserve Fund.

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, the town of Southbridge is hereby authorized, after compliance with applicable procurement laws, to enter into management contracts for water and sewer treatment facilities, for periods of ten years with options for renewal.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the town of Southbridge is hereby authorized to enter into contracts for the sale of water, including potable water, non-potable water and effluent for a period not to exceed 30 years.

Approved April 9, 1998.

Chapter 78. AN ACT ESTABLISHING A REVOLVING TRUST FUND TO AID IN THE FINANCING OF DRINKING WATER PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a revolving trust fund to aid in the financing of drinking water projects, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 27A of chapter 21 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- As a prior necessary condition to the award of a loan by the trust to a local governmental unit to finance costs of a water pollution abatement project, the board shall receive a certificate issued by the department approving the project and certifying those costs of the project determined by

the department to be eligible for financial assistance pursuant to section 6 or section 6A of chapter 29C. The department may approve a loan for costs of a project not eligible for financial assistance pursuant to said section 6 or section 6A; provided, however, that no federal capitalization grants or associated matching grants from the commonwealth shall be applied to fund or secure a loan for any such costs unless otherwise approved by the board.

SECTION 2. Chapter 29 of the General Laws is hereby amended by striking out section 2W, as so appearing, and inserting in place thereof the following section:-

Section 2W. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Water Pollution Abatement and Drinking Water Projects Administration Fund. There shall be credited to said fund any amounts transferred pursuant to sections 5 and 18 of chapter 29C and any income derived from the investment of amounts credited to said fund. Amounts credited to said fund shall be held in an expendable trust and the department of environmental protection shall report monthly all amounts credited to said fund and all expenditures by subsidiary on the Massachusetts management and accounting reporting system, so-called. Said amounts shall be used solely for the administration of the provisions of section 27A of chapter 21 and section 18 of said chapter 29C.

SECTION 3. Said chapter 29 is hereby further amended by inserting after section 2PP, inserted by section 4 of chapter 226 of the acts of 1997, the following section:-

Section 2QQ. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Drinking Water Revolving Fund, consisting of amounts credited to the fund in accordance with chapter 29C. The fund shall be administered in accordance with the provisions of said chapter 29C by the board of trustees of the water pollution abatement trust created thereunder and shall be held in trust exclusively for the purposes and the beneficiaries described therein. The state treasurer shall be treasurer and custodian of the fund and shall have the custody of its moneys and securities.

SECTION 4. Section 1 of chapter 29C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the definition of "Department" the following three definitions:-

"Drinking water project", a project of a type or category which the department has determined, consistent with guidance issued by the United States Environmental Protection Agency in accordance with the Safe Drinking Water Act, shall facilitate compliance with national primary drinking water regulations under section 1412 of the Safe Drinking Water Act or otherwise significantly further the health protection objectives of the Safe Drinking Water Act or the department's drinking water regulations including, without limitation, the rehabilitation or development of water sources to replace contaminated sources, the installation or upgrade of drinking water treatment or storage facilities, the installation or replacement of transmission and distribution pipes to prevent contamination and the planning and design of eligible projects.

"Eligible borrower", with respect to a water pollution abatement project, a local governmental unit authorized to own, operate, finance or otherwise implement such water

pollution abatement projects and, with respect to a drinking water project, a local governmental unit or any other person, public or private, authorized to own, operate, finance or otherwise implement such drinking water project.

"Financial assistance or other forms of financial assistance", a type of assistance provided to or on behalf of an eligible borrower as authorized by Title VI of the Clean Water Act, as defined herein, or Title XIV of the Safe Drinking Water Act, as defined herein, approved by the department under section 27A of chapter 21 or section 18 of this chapter.

SECTION 5. Said section 1 of said chapter 29C, as so appearing, is hereby further amended by striking out the definition of "Loan" and inserting in place thereof the following definition:-

"Loan", a form of financial assistance subject to repayment in whole or in part which is provided by the trust to a local governmental unit or other eligible borrower for all or any part of the cost of a water pollution abatement project or a drinking water project, as applicable. A loan may (i) provide for planning, construction, bridge or permanent financing; (ii) be disbursed in anticipation of reimbursement of or direct payment of costs of a project or take the form of a guarantee, line of credit, bond purchase agreement, or other form of financial assistance; and (iii) may be issued at such rates of interest including, without limitation, variable rates and zero interest, may mature at such times and be redeemable at the option of the board or the local governmental unit or other eligible borrower, all as may be determined in accordance with this chapter; provided, however, that for all purposes of this chapter, notwithstanding any other general or special law to the contrary and unless otherwise determined by the board, a loan made at one-half of market interest rate shall be deemed the financial equivalent of a grant of 25 per cent of the eligible costs of the project financed by the loan and a loan made at a zero rate of interest shall be deemed the financial equivalent of a grant of 50 per cent of the eligible costs of the project financed by the loan.

SECTION 6. Said section 1 of said chapter 29C, as so appearing, is hereby further amended by striking out, in lines 58 to 60, inclusive, the words "any agreement entered into between the trust and a local governmental unit pertaining to a loan or local governmental obligations" and inserting in place thereof the following words:- an agreement entered into between the trust and a local governmental unit or other eligible borrower pertaining to a loan or the purchase and delivery of local governmental obligations or other instruments evidencing or securing a loan.

SECTION 7. Said section 1 of said chapter 29C, as so appearing, is hereby further amended by striking out the definition of "Local government unit or local governmental unit" and inserting in place thereof the following definition:-

"Local government unit or local governmental unit", a town, city, district, commission, agency, authority, board or other instrumentality of the commonwealth or of any of its political subdivisions, including any regional local governmental unit.

SECTION 8. Said section 1 of said chapter 29C, as so appearing, is hereby further amended by inserting after the definition of "Revenues" the following definition:-

"Safe Drinking Water Act", Title XIV of the Federal Public Health Service Act, commonly known as the Safe Drinking Water Act, 42 USC 300f et seq., as amended.

SECTION 9. Subsection (b) of section 3 of said chapter 29C, as so appearing, is hereby amended by striking out clause (iv) and inserting in place thereof the following clause:-

(iv) to make loans and other forms of financial assistance authorized by Title VI of the Clean Water Act to local governmental units to finance or refinance costs of water pollution abatement projects, to acquire, hold and sell local governmental obligations and other instruments evidencing the loans and other forms of financial assistance at such prices and in such manner as the board shall deem advisable and to secure bonds of the trust with loans, local governmental obligations and other instruments.

SECTION 10. Section 5 of said chapter 29C, as so appearing, is hereby amended by striking out clause (i) and inserting in place thereof the following clause:-

(i) to make, and enter into binding commitments to make, loans and other forms of financial assistance authorized by Title VI of the Clean Water Act approved by the department under section 27A of chapter 21 to local governmental units for the purpose of financing or refinancing costs of water pollution abatement projects and to provide for all or any part of the debt service costs on loans and other forms of financial assistance made by the trust during the implementation of such projects and for such period thereafter as the board shall determine.

SECTION 11. Said section 5 of said chapter 29C, as so appearing, is hereby further amended by striking out clause (iii) and inserting in place thereof the following clause:-

(iii) to transfer to the Water Pollution Abatement and Drinking Water Projects Administration Fund amounts derived from proceeds of each federal capitalization grant award received by the trust to the extent determined by the board and subject to the approval of the executive office for administration and finance.

SECTION 12. Said chapter 29C is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. Subject to limitations in other laws respecting the use of particular monies in the fund and the provisions of any trust agreement for bonds of the trust, the board may also apply and disburse monies and revenues in the fund or segregated accounts therein:

(i) after taking account of any grant made by the department pursuant to section 33E of chapter 21, to provide, and enter into binding commitments to provide, a subsidy for, or to otherwise assist local governmental units in the payment of, debt service costs on loans and other forms of financial assistance made by the trust; and

(ii) to provide reserves for, or to otherwise secure, amounts payable by local governmental units on loans and other forms of financial assistance made by the trust pursuant to this chapter.

The board shall apply and disburse monies in the fund, including contract assistance provided in this section and in section 6A, or shall otherwise structure the debt service costs on loans and other forms of financial assistance made by the trust, to provide a subsidy or other assistance to local governmental units in the payment of debt service costs on such loans and other forms of financial assistance equivalent to a grant of 25 per cent of the eligible costs on the water pollution abatement project financed by the loan or other financial

assistance. Notwithstanding the foregoing but subject to the limit on contract assistance provided in this section, all permanent loans and other forms of financial assistance to finance costs of water pollution abatement projects for which the trust shall execute and deliver loan agreements on and after October 1, 1995 shall provide a subsidy or other assistance equivalent to a grant of 50 per cent of the eligible costs of the project financed thereby. To provide for such subsidy or assistance, in addition to the contract assistance provided in section 6A, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the trust that the commonwealth shall provide contract assistance for debt service obligations on loans and other forms of financial assistance made by the trust up to a maximum amount of \$20,000,000 per fiscal year of the commonwealth. Such contract assistance agreement shall provide for payments by the commonwealth to the trust at such times during each fiscal year and upon such terms and under such conditions as the trust may stipulate. The trust may pledge such agreement and the rights of the trust to receive amounts thereunder as security for payment of debt obligations issued to the trust. Such agreement shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the trust and of the holders of any debt obligations of the trust which may be secured by the pledge of such agreement or of amounts to be received by the trust under such agreement.

SECTION 13. Section 6A of said chapter 29C, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

To provide for such subsidy or assistance, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the trust that the commonwealth shall provide contract assistance for debt service obligations on loans and other forms of financial assistance made by the trust up to a maximum amount of \$26,000,000 per fiscal year of the commonwealth. Such contract assistance agreement shall provide for payments by the commonwealth to the trust at such times during each fiscal year and upon such terms and under such conditions as the trust may stipulate. The trust may pledge such agreement and the rights of the trust to receive amounts thereunder as security for payment of debt obligations issued to the trust. Such agreement shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the trust and of the holders of any debt obligations of the trust which may be secured by the pledge of such agreement or of amounts to be received by the trust under such agreement.

SECTION 14. Said chapter 29C is hereby further amended by adding the following section:-

Section 18. (a) In addition to the powers and duties of the board otherwise provided in this chapter, the trust is hereby designated as the instrumentality of the commonwealth to establish and administer within the Drinking Water Revolving Fund, the state revolving fund pursuant to the Safe Drinking Water Act. The board shall apply monies in the Drinking Water Revolving Fund for the purpose of providing financial assistance, in the manner contemplated by section 1452 of the Safe Drinking Water Act, section 160 of chapter 111

and the department's drinking water regulations, to local governmental units and other eligible borrowers as provided herein, as beneficiaries of the fund, to finance or refinance costs of eligible drinking water projects approved by the department of environmental protection.

(b) The board shall receive in trust, hold, administer and disburse without further appropriation or allotment by the commonwealth in and from the Drinking Water Revolving Fund exclusively for the benefit of the beneficiaries thereof the following monies: (i) notwithstanding the provisions of sections 2B and 2C of chapter 29, all federal capitalization grants received under the Safe Drinking Water Act for purposes of the fund; (ii) amounts appropriated by the commonwealth to the trust for purposes of the fund; (iii) proceeds of bonds of the trust to the extent required by the board's resolution for issuance of such bonds or any applicable trust agreement; (iv) investment earnings on monies in the fund; and (v) any other amounts required to be credited to the fund by any law or by any resolution, loan agreement or trust agreement of the board or which the board shall otherwise determine to deposit therein.

• (c) In the implementation of this section and the administration of the Drinking Water Revolving Fund, all provisions of this chapter and subsections (a), (c), (e) and (f) of section 27A of chapter 21 applicable to the Water Pollution Abatement Revolving Fund and the provision of financial assistance by the trust to local governmental units and other eligible borrowers for costs of water pollution abatement projects shall be equally applicable, to the extent consistent with this section, to the Drinking Water Revolving Fund and to the provision of financial assistance for costs of drinking water projects and the board and the department shall have the powers and shall be subject to the applicable limitations provided in this chapter and said subsections (a), (c), (e) and (f) to carry out the provisions of this section. Without limiting the generality of the foregoing, the board may apply and disburse monies and revenues of the Drinking Water Revolving Fund: (i) to make, and enter into binding commitments to make, loans and other forms of financial assistance authorized by the Safe Drinking Water Act to local governmental units and other eligible borrowers for the purpose of financing or refinancing costs of drinking water projects or portions thereof which have been approved by the department, including approval of the costs of such projects or portion thereof eligible to receive financial assistance as provided in this section, and completed, as determined by the department, after the promulgation date of the department's regulations implementing its powers under this section and to provide for all or any part of the debt service costs on loans and other forms of financial assistance made by the trust during the construction of such projects and for such period thereafter as the board shall determine; (ii) to provide reserves for or otherwise secure bonds of the trust and to provide insurance and letters or lines of credit or other credit enhancement which it deems reasonable and appropriate for bonds; (iii) to provide, and enter into binding commitments to provide, a subsidy for, or to otherwise assist local governmental units and other eligible borrowers in the payment of, debt service costs on loans and other forms of financial assistance made by the trust pursuant to this section and to provide any other subsidization

Chap. 78

authorized by the Safe Drinking Water Act in addition to the subsidy or other assistance authorized by this section; (iv) to provide reserves for, or to otherwise secure, amounts payable by local governmental units and other eligible borrowers on, loans and other forms of financial assistance made by the trust pursuant to this section; (v) to transfer to the Water Pollution Abatement and Drinking Water Projects Administration Fund established under section 2W of chapter 29 amounts derived from the proceeds of each federal capitalization grant award received by the trust to the extent determined by the board; and (vi) to provide payment from any available source for reasonable and necessary professional and financial services incident to the conduct of the programs of the trust, including costs of issuance of its bonds.

(d) The powers and duties otherwise conferred upon the department by law with respect to the regulation and supervision of public water supplies shall in no respect be diminished by this section including, but not limited to, the authority of the department to ensure that public water systems demonstrate technical, managerial and financial capacity with respect to the department's drinking water regulations. The department and the board shall establish standards, guidelines, criteria and other rules and regulations for the administration and implementation of their powers under this section including, without limitation, a priority system and priority list for the approval of projects, the determination of eligible borrowers and eligible costs of projects and the terms and conditions of loans by the trust.

(e) In addition to the authority provided in section 9, the board may provide by resolution for the issuance from time to time of bonds of the trust to carry out the purposes of this section. The holders of such bonds shall also be beneficiaries of the Drinking Water Revolving Fund to the extent provided in any trust agreement entered into by the trust with such holders. Except to the extent limited by the requirements of Title VI of the Clean Water Act or by the Safe Drinking Water Act or other applicable federal law, the board may secure bonds of the trust by pledging monies held in or otherwise allocable to either or both the Water Pollution Abatement Revolving Fund or the Drinking Water Revolving Fund, where the board determines that doing so will reasonably promote the purposes of either or both funds.

(f) Any local governmental unit and any other eligible borrowers may apply to the trust for a loan or other financial assistance authorized by the Safe Drinking Water Act to assist in financing or refinancing the cost of a drinking water project approved by the department. For entering into a loan or other financial assistance for financing or refinancing a drinking water project and establishing the authorized terms and conditions thereof and for issuing any local governmental obligations to secure the same, a local governmental unit shall be deemed to have all of the same powers expressly granted to local governmental units by this chapter with respect to loans or other financial assistance for financing or refinancing water pollution abatement projects and the powers granted to any such local governmental unit in any bond act applicable to it specifically or as a member of a class of governmental instrumentalities. Without limiting the generality of the foregoing, all local governmental

units shall have the powers and shall be subject to the limitations with respect to such loans and local government obligations and the public water system of which the drinking water project financed by such loan is a part and the local system revenues therefrom set forth in sections 10 to 15, inclusive.

(g) In addition to the purposes set forth in subsection (c), the board shall apply and disburse monies in the Drinking Water Revolving Fund, including contract assistance as provided in this subsection, or shall otherwise structure the debt service costs on loans and other forms of financial assistance made by the trust, to provide a subsidy or other assistance to local governmental units and other eligible borrowers in the payment of debt service costs on all permanent loans and other forms of financial assistance made by the trust pursuant to this section equivalent to a grant of 50 per cent of the eligible costs of the drinking water project financed thereby. To provide for a portion of such subsidy or assistance, in addition to the contract assistance provided in sections 6 and 6A, the state treasurer acting on behalf of the commonwealth shall enter into an agreement with the trust that the commonwealth shall provide contract assistance for debt service obligations on loans and other forms of financial assistance made by the trust pursuant to this section up to a maximum amount of \$9,000,000 per fiscal year of the commonwealth. Such contract assistance agreement shall provide for payments by the commonwealth to the trust at such times during each fiscal year and upon such terms and under such conditions as the trust may stipulate. The trust may pledge such agreements and the rights of the trust to receive amounts thereunder as security for payment of debt obligations issued to the trust. Such agreement shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the trust and of the holders of any debt obligations of the trust which may be secured by the pledge of such agreement or of amounts to be received by the trust under such agreement.

SECTION 15. Section 15 of chapter 275 of the acts of 1989, as amended by section 17 of chapter 203 of the acts of 1992, is hereby further amended by striking out the second and third sentences and inserting in place thereof the following three sentences:- On and after June 30, 1997, the department of environmental protection shall not approve a loan or other financial assistance pursuant to chapter 29C of the General Laws or otherwise from the water pollution abatement trust created thereby to a local governmental unit or other eligible borrower to finance or refinance costs of a drinking water project as defined in said chapter 29C unless the local governmental unit or other eligible borrower receiving such loan or other financial assistance shall have adopted, by ordinance, rule, regulation, vote or other appropriate action, to take effect within 90 days of the award of the loan or other financial assistance, a pricing system for drinking water services which reflects the true cost of such services to the local governmental unit or other eligible borrower and which is based on a flat rate per volume or on the basis of ascending unit rates per volume, whether the cost of such services are included in an annual tax levy or are collected by rates, charges, fees, assessments or other charges. The foregoing requirements shall not apply to a project to which a pricing system is inapplicable as determined by the department. Such requirements

shall also not apply to a regional local governmental unit; provided, however, that each city, town, commission, board or other instrumentality which is a member or other service recipient thereof shall adopt a pricing system satisfying the foregoing requirements or such member or other service recipient shall be ineligible to receive its allocable share of any financial assistance provided to the regional local governmental unit under said chapter 29C or otherwise from the trust.

SECTION 16. Section 20 of said chapter 275 is hereby repealed.

SECTION 17. Item 7004-1966 of section 2 of chapter 43 of the acts of 1997 is hereby amended by striking out the figure "\$4,500,000" and inserting in place thereof the following figure:- \$5,800,000.

SECTION 18. Item 1599-3919 of section 2E of chapter 88 of the acts of 1997, as amended by section 10 of chapter 226 of the acts of 1997, is hereby further amended by adding the following words:- ; and provided, further, that as used in this item, the term "water treatment project" shall mean the planning, including facility study, piloting, value engineering, preliminary and final design and preconstruction activity and construction, including construction supervision, operator training and facility start-up, of publicly owned drinking water filtration plants for the treatment of public water supplies.

SECTION 19. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer, within ten days of the effective date of this act, the sum of \$32,430,362 from the General Fund to the water pollution abatement trust established pursuant to the provisions of chapter 29C of the General Laws for deposit in the Drinking Water Revolving Fund established pursuant to the provisions of section 2QQ of chapter 29 of the General Laws for application by the trust to the purposes specified in section 18 of said chapter 29C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under the federal Safe Drinking Water Act.

SECTION 20. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer, within ten days of the effective date of this act, the sum of \$2,327,179 to the water pollution abatement trust established pursuant to the provisions of chapter 29C of the General Laws for deposit in the Water Pollution Abatement Revolving Fund established pursuant to the provisions of section 2L of chapter 29 of the General Laws for application by the trust to the purposes specified in section 5 and clauses (i) and (ii) of section 6 of said chapter 29C, any portion of which may be used as a matching grant by the commonwealth to federal capitalization grants received under Title VI of the federal Clean Water Act.

SECTION 21. The comptroller shall transfer the unexpended balance of the Water Treatment Facilities Revolving Fund, established by section 20 of chapter 275 of the acts of 1989, to the Drinking Water Revolving Fund established under section 2QQ of chapter 29 of the General Laws; provided, however, that said Drinking Water Revolving Fund shall be considered the successor fund established for the purpose of creating a safe drinking water revolving fund program pursuant to section 106 of chapter 88 of the acts of 1997.

SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, the water pollution abatement trust established under the provisions of chapter 29C of the General Laws is hereby authorized and directed, subject to appropriation, to provide financial assistance to local governmental units to meet debt service obligations on bonds incurred by such local governmental units after January 1, 1992 to finance costs of water treatment projects, or portions thereof, which have been approved by the department of environmental protection, including approval of the costs of such water treatment projects or portions thereof eligible to receive financial assistance as provided in this section, and completed, as determined by the department, on or prior to the promulgation date of the department's regulations implementing its powers under section 18 of said chapter 29C.

As used in this section, the term "water treatment project" shall mean the planning, including facility study, piloting, value engineering, preliminary and final design and preconstruction activity and construction, including construction supervision, operator training and facility start-up, of publicly owned drinking water filtration plants for the treatment of public water supplies; provided, however, that notwithstanding the provisions of any general or special law to the contrary, the following shall constitute water treatment projects for the purposes of this section: (1) a water disinfection treatment, corrosion control and storage facility, including an essential related pump station and transmission lines, in the city of Holyoke; (2) an ozonation and ultrafiltration facility, so-called, for the treatment and filtration of Spectacle Pond Well water in the town of Littleton; (3) a treatment plant incorporating "air stripping" technology, so-called, to remove volatile organic compounds at the Springvale Wells facility in the town of Natick; provided, further, that any private water company serving as a public water supplier for more than one municipality and constituting a large or medium sized water system, as defined by United States environmental protection agency, which leases and operates or has completed a water treatment project for a surface water source, shall be eligible to receive financial assistance if such a private water company enters into a memorandum of understanding with the department which establishes a method for ensuring that all financial assistance provided under the provisions of this program are returned to the customers in the form of a rate reduction; provided, further, that the provisions of such memorandum of understanding shall also ensure compliance with the provisions of Article LXII of the Amendments to the Constitution; provided, further, that any such private water company shall file a rate reduction petition with the department of telecommunications and energy within 30 days after approving the memorandum of understanding with the department; and provided, further, that in no event shall financial assistance be paid to such a private water company until the department of telecommunications and energy has taken final action on such petition for rate reduction. Subject to the limit on contract assistance provided herein, the trust shall provide financial assistance for each water treatment project or portion thereof authorized by this section in such manner and under such terms and conditions as shall be determined by the board of trustees of the trust in an aggregate amount equal to 50 per cent

Chap. 78

of the eligible costs of such water treatment project or portion thereof. Water treatment projects or portions thereof which receive financial assistance in accordance with this section shall not be eligible for a loan or other forms of financial assistance from the trust under said chapter 29C. To provide for such financial assistance, in addition to the contract assistance provided in sections 6, 6A and 18 of said chapter 29C, the state treasurer, acting on behalf of the commonwealth, shall enter into an agreement with the trust that the commonwealth shall provide contract assistance to the trust up to a maximum amount of \$8,000,000 per fiscal year of the commonwealth and up to \$80,000,000 in the aggregate. The department shall report the total annual amount of contract assistance necessary and the amounts that each municipality shall receive in each current and subsequent fiscal year to meet the provisions of this section. Said report shall be filed with the house and senate committees on ways and means no later than March first of each year. Such contract assistance agreement shall provide for a schedule of payments to be made by the commonwealth to the trust and may provide for other terms and conditions.

Approved April 9, 1998.

Chapter 79. AN ACT FURTHER REGULATING THE SITING OF ASPHALT BATCHING FACILITIES IN THE CITIES OF CHELSEA, MALDEN AND REVERE.

Be it enacted, etc., as follows:

No asphalt batching or liquid asphalt storage facility shall be located in an area which is less than one-half mile in linear distance from a hospital, nursing home, area of critical environmental concern as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or area occupied by residential housing, in the cities of Chelsea, Malden and Revere. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however, that any such facility in operation as of December 1, 1996 shall not be subject to the provisions of this act.

Approved April 19, 1998.

Chapter 80. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO BORROW A CERTAIN SUM OF MONEY FOR CAPITAL IMPROVEMENTS TO THE LIBRARY AND MUSEUM BUILDINGS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter 44 of the General Laws or any other general or special law to the contrary, the city of Springfield is hereby authorized

Chap. 80

to bond for a sum of money, not exceeding, in the aggregate, \$6,990,000, for the purpose of purchasing equipment, remodeling, reconstructing, and making extraordinary repairs to libraries and museums buildings owned and operated by the Springfield Library and Museums Association, such equipment, remodeling, reconstruction and repairs being for maintenance and support of such libraries and museums. The treasurer of said city, with the approval of the city council and the mayor, is authorized to borrow on behalf of said city from time to time such sums as may be necessary, not exceeding, in the aggregate, \$6,990,000, and may issue bonds or notes therefor, which shall bear on their face the words, City of Springfield Library and Museum Loan, Act of 1998. Each issue shall constitute a separate loan, and such loans shall be paid within not more than 20 years from their dates.

Indebtedness incurred under this act shall not be subject to the approval of the emergency finance board but, except as herein provided, shall be subject to chapter 44 of the General Laws. The treasurer with the approval of the mayor may also make temporary loans under the provisions of section 17 of said chapter 44 in anticipation of the proceeds of the bonds or notes authorized by this act.

SECTION 2. This act shall take effect upon its passage.

Approved April 19, 1998.

Chapter 81. AN ACT PROVIDING FOR THE APPOINTMENT OF A TREASURER IN THE TOWN OF BOXBOROUGH.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, the treasurer of the town of Boxborough shall be appointed by the board of selectmen of said town for a term not to exceed three years and the person so appointed, who need not be a resident of said town, shall have all of the powers and duties vested in town treasurers by the General Laws.

SECTION 2. Notwithstanding the provisions of section 1, the incumbent in the office of treasurer, upon the effective date of this act, shall continue to hold said office and to perform the duties thereof until the expiration of his term and the appointment of a treasurer unless said office is sooner vacated.

SECTION 3. This act shall take effect upon its passage.

Approved April 19, 1998.

Chapter 82. AN ACT RELATIVE TO THE PRESIDING OFFICER OF THE TOWN COUNCIL OF THE TOWN OF GREENFIELD.

Be it enacted, etc., as follows:

The charter of the town of Greenfield which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws is hereby amended by striking out section 3.3 and inserting in place thereof the following section:-

Section 3.3. The presiding officer of the Town Council shall be one of its members, whose election shall occur at the council's annual organizational meeting. No person shall serve as presiding officer for more than three consecutive one-year terms.

Approved April 22, 1998.

Chapter 83. AN ACT RELATIVE TO CERTAIN BETTERMENT ASSESSMENTS IN THE TOWN OF GRANBY.

Be it enacted, etc., as follows:

SECTION 1. The town of Granby is hereby authorized and directed to record a grant from the United States Department of Agriculture in the amount of \$96,000 as revenue in the sewer enterprise fund, and further, to reduce betterments assessed on 48 parcels on August 25, 1992 by the sum of \$2,000 each; provided, however, that if such betterment assessed against any parcel has been paid in full, the town shall refund said \$2,000 to the assessed owner of the parcel on the effective date of this act without interest, or if such betterment is being apportioned as provided by law, that the assessors shall recompute the annual installments due in fiscal year 1999 and later years to reflect said \$2,000 reduction.

SECTION 2. This act shall take effect upon its passage.

Approved April 22, 1998.

Chapter 84. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF GREENFIELD.

Be it enacted, etc., as follows:

The charter of the town of Greenfield, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out section 17-2 and inserting in place thereof the following four sections:-

Section 17.2 The Council on Aging director or designee shall consult with the Town Manager and the Board of Selectmen prior to the submission of the Council on Aging budget by the Board of Selectmen to the Town Council for appropriation.

Chap. 84

Section 17.3 The Council on Aging shall, in addition, have the following powers and duties: to select and submit to the Town Manager for appointment the candidate to serve as Director of the Council on Aging who shall be charged with the day-to-day administration of the Senior Center, subject to the personnel policies of the town, the direction of the Town Manager, and the by-laws and policies of the Council on Aging.

Section 17.4 The Council on Aging shall have management of the Senior Center. The director shall, in addition, have the following powers and duties: to hire all employees of the Senior Center, subject to the approval of the Town Manager and within the limits established by collective bargaining agreements or otherwise; to define their duties; and to make recommendations for discharge.

Section 17.5 The Council on Aging shall have all other powers and duties as may be provided by all other applicable laws or otherwise granted by the Town Council.

Approved April 22, 1998.

Chapter 85. AN ACT ESTABLISHING THE OFFICE OF TOWN ACCOUNTANT IN THE TOWN OF PLYMPTON.

Be it enacted, etc., as follows:

SECTION 1. The office of town accountant in the town of Plympton is hereby established. Such town accountant shall be appointed by the board of selectmen for a term of three years and shall perform all the duties established by sections 49 to 61, inclusive, of chapter 41 of the General Laws. Said town may establish by by-law such qualifications for said office as are deemed necessary and appropriate. Any vacancy in said office shall be filled in a like manner for the unexpired portion of such term.

SECTION 2. This act shall take effect upon its passage.

Approved April 22, 1998.

Chapter 86. AN ACT RELATIVE TO THE TERMS OF CERTAIN BONDS AND NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of bonds and notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the

Chap. 86

contrary, the bonds which the state treasurer is authorized to issue under section 15 of chapter 180 of the acts of 1997, shall be issued for a term not to exceed 20 years; provided, however, that all such bonds shall be payable by June 30, 2020, as recommended by the governor in a message to the general court dated December 12, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 16 of chapter 180 of the acts of 1997, shall be issued and may be renewed one or more times for a term not to exceed one year; provided, however, that all such notes shall be payable by June 30, 2005, as recommended by the governor in a message to the general court dated December 12, 1997, in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved April 22, 1998.

Chapter 87. AN ACT FURTHER REGULATING VOTER REGISTRATION FOR VICTIMS OF CERTAIN CRIMES.

Be it enacted, etc., as follows:

SECTION 1. Section 4 of chapter 51 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "schools", in line 52, the following words:- ; and provided, further, that the name and address of any person who provides the registrars with a copy of a court order granting protection, or evidence of residence in a protective shelter, or an affidavit signed by a chief of police or his designee that said person is entitled to have certain information withheld from the public under section 24C of chapter 265, shall not appear on the street list and such names shall not be disclosed to any person.

SECTION 2. Section 37 of said chapter 51, as so appearing, is hereby amended by inserting after the word "shelter", in line 47, the following words:- , or an affidavit signed by a chief of police or his designee that said person is entitled to have certain information withheld from the public under section 24C of chapter 265.

SECTION 3. Section 44 of said chapter 51, as so appearing, is hereby amended by inserting after the word "shelter", in line 9, the following words:- , or an affidavit signed by a chief of police or his designee that said person is entitled to have certain information withheld from the public under section 24C of chapter 265.

Approved April 22, 1998.

Chapter 88. AN ACT PROMOTING THE SAFETY OF EMPLOYEES OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.

Be it enacted, etc., as follows:

The first paragraph of section 19 of chapter 161A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "training", in line 38, the following words:- ; provided, however, that to the extent that levels of staffing and training have an impact on the safety of authority employees, the determination, development and implementation of such levels of staffing and training shall not constitute a matter of inherent management right and the directors shall have the authority to bargain collectively on such subjects with labor organizations representing employees of the authority; and provided further, that such directors and labor organizations may include in any written agreement a grievance procedure culminating in final and binding arbitration before a neutral arbitrator which may be invoked in the event that an employee of the authority to whom such agreement applies is aggrieved by actions taken by authority directors or management with respect to the development, determination or implementation of levels of staffing and training which have an impact on the safety of authority employees.

Approved April 23, 1998.

Chapter 89. AN ACT AUTHORIZING THE TOWN OF BURLINGTON TO SEND CERTAIN INFORMATION TO THE VOTERS OF SAID TOWN.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 21C of chapter 59 of the General Laws, section 22A of chapter 55 of the General Laws or any other general or special law to the contrary, the board of selectmen of the town of Burlington shall, at least ten days before any election at which a binding or nonbinding question shall be submitted solely to the voters of said town, cause to be printed and sent to each residence of one or more voters whose name appears on the latest active voting list for said town and make available at each polling place (1) the full text of such question, (2) a fair and concise summary of such question, including a one sentence statement describing the effect of a yes or no vote, prepared by the town counsel of said town, and (3) arguments for and against such question as provided in section 2.

SECTION 2. The board of selectmen of the town of Burlington shall cause to be printed and sent, in the manner provided in section 1, arguments for and against each question submitted solely to the voters of said town pursuant to any General Law, including but not limited to, section 21C of chapter 59 of the General Laws. No argument shall contain more than 250 words.

Said board of selectmen, or, at its request, said town counsel shall seek such written arguments from the principal proponents and opponents of each such question. Said board

Chap. 89

of selectmen shall designate a date by which written arguments must be received, in a written notice to the principal proponents and opponents. Said notice must be issued at least 14 days before the date by which the written arguments must be received.

For the purposes of this act, the principal proponents and opponents of any such question shall be those persons determined by said board of selectmen to be best able to present the arguments for and against such question. The principal proponents or opponents of such a question may include a town officer or committee, and the principal proponents may include the first ten signers or a majority of the first ten signers of any petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said board of selectmen shall contact each ballot question committee, if any, as defined in section 1 of chapter 55 of the General Laws, organized specifically to influence the outcome of the vote on such question. If no argument is received by said board of selectmen within the time allowed by this act, said town counsel shall prepare such argument.

All arguments filed with or prepared by the board of selectmen pursuant to this act, and the summary prepared pursuant to section 1, shall be open to public inspection at the office of the town clerk of said town.

SECTION 3. The official ballot shall include the summary and statements describing the effect of a yes or no vote as provided in clause (2) of section 1.

SECTION 4. This act shall also apply where the question presented involves the regional district of which the town of Burlington is a member or involves a joint undertaking by said town of Burlington and any one or more cities or towns.

SECTION 5. This act shall take effect upon its passage.

Approved April 23, 1998.

Chapter 90. AN ACT AUTHORIZING THE CITY OF FALL RIVER RETIREMENT BOARD TO INCREASE THE PENSION PAYABLE TO RETIRED FIREFIGHTER WALTER NICOLAU.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or rule to the contrary, the retirement board of the city of Fall River is hereby authorized and directed to increase the pension payable to Walter Nicolau, a retired firefighter in the department of the city of Fall River who, as a result of injuries sustained by him while in the performance of his duties as a firefighter, is totally disabled for further service as a firefighter. The annual amount of pension payable to Walter Nicolau under the provisions of this act shall be fixed at an amount equal to the regular rate of compensation which he would have been paid had he continued in service as a firefighter of said city at the grade held by him at the time of his retirement. The annual pension payable to said Walter Nicolau

Chap. 90

under the provisions of this act shall be reduced by the amount of any compensation he may receive from gainful employment after the effective date of this act. Said Walter Nicolau shall be entitled to receive all annual cost of living adjustments in his annual pension granted under the provisions of any general or special law. Upon the effective date of this act, the retirement board of said city shall forthwith pay to him all the amounts standing to his credit in the annuity savings or annuity reserve funds for the retirement system of said city.

SECTION 2. The provisions of section 100 of chapter 41 of the General Laws shall apply to Walter Nicolau, relative to the indemnification by the city of Fall River, for any hospital, medical or related expenses which may be incurred by him after the effective date of this act as a result of the aforementioned incapacity.

SECTION 3. Upon the death of said Walter Nicolau, if he leaves a wife surviving him and as long as she remains unmarried, the city of Fall River shall pay to her an annual annuity equal to the amount of three-fourths of the amount of the pension payable to said Walter Nicolau at the time of his death. Upon the death or remarriage of the survivor wife of said Walter Nicolau, said city shall pay to the surviving children of Walter Nicolau until the age of 18, a pension of equal proportion to each child which shall total three-fourths of the amount of the pension payable to Walter Nicolau at the time of his death.

SECTION 4. This act shall take effect upon its passage.

Approved April 23, 1998.

**Chapter 91. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF
EDDIE EAGLE GUN SAFETY WEEK.**

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15YYY, inserted by chapter 3 of the acts of 1998, the following section:-

Section 15ZZZ. The governor shall annually issue a proclamation setting apart the first week of October as Eddie Eagle Gun Safety Week and recommending that said week be observed in an appropriate manner by the people.

Approved April 23, 1998.

Chapter 92. AN ACT RELATIVE TO THE BUZZARDS BAY WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 145 of the acts of 1937 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Chap. 92

Section 4. For the purpose of paying the necessary expenses and liabilities incurred under the provisions of this act, the district may borrow in accordance with chapter 44 of the General Laws and other applicable laws of the commonwealth.

SECTION 2. Said chapter 145 is hereby further amended by striking out section 7, as amended by section 1A of chapter 106 of the acts of 1951, and inserting in place thereof the following section:-

Section 7. Whenever appropriations are duly voted by said district the clerk shall apportion the sums of money to be raised between the towns of Bourne and Plymouth in the proportion that the number of users in each of said towns bears to the total number of users in said district and shall render a certified copy of the vote, with the apportionment made by said clerk, to the assessors of said towns of Bourne and Plymouth, who shall assess the share of each town in the same manner in all respects in which town taxes are required by law to be assessed. The assessment shall be committed to said town collectors who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of said district. Said district may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes.

SECTION 3. Said chapter 145 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. Meetings of the district shall be called by the clerk when requested by at least a majority of the board of commissioners or by ten or more legal voters of said district. Said clerk shall give due notice of such meeting by posting copies of the warrant in two or more public places in said district at least seven days before the time of the meeting.

SECTION 4. Section 9 of said chapter 145 is hereby amended by striking out the second and third sentences and inserting in place thereof the following three sentences:- All the authority granted to said district by this act, and not otherwise specifically provided for, shall be vested in said board of water commissioners, who shall be subject, however, to such instructions, rules and regulations as the district may by vote impose. At each annual district meeting, the commissioners shall appoint a treasurer of the district, who shall give bond to the district in accordance with the General Laws and the commissioners shall appoint a clerk of the district who shall serve for a term of one year to include the next annual district meeting. At each annual district meeting, the district shall elect a moderator to serve for a term of one year.

SECTION 5. Said chapter 145 is hereby further amended by striking out section 10 and inserting in place thereof the following section:-

Section 10. Said commissioners shall fix just and equitable prices and rates for the use of water and shall prescribe the time and manner of payment. The income of the water works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they shall accrue upon any bonds or notes issued under authority of this act. Said commissioners shall annually, and as often as the district may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of receipts and expenditures.

Chap. 92

SECTION 6. Section 12 of said chapter 145 is hereby repealed.

SECTION 7. Said chapter 145 is hereby further amended by adding the following section:-

Section 15. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the Buzzards Bay Water District is hereby authorized to establish a separate fund to be known as the Betterment Reserve Fund, which shall be kept separate and apart from all other monies of said district by the treasurer of said district. All betterment payments, apportioned and unapportioned and received by said district shall be deposited into said fund.

The treasurer may invest such funds in the manner authorized by sections 54 and 55 of said chapter 44. The principal and interest thereon shall be reserved for appropriation for the payment of said water district's betterment debt. Any excess in said fund may be transferred to the general fund of said water district.

SECTION 8. This act shall take effect upon its passage.

Approved April 23, 1998

Chapter 93. AN ACT PROVIDING FOR THE LAYOUT AND ACCEPTANCE OF CERTAIN WAYS BY THE TOWN OF MANSFIELD.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Mansfield is hereby authorized to lay out and accept as public ways any of the ways listed in a document on file with the town clerk in accordance with the following provisions. The planning board of said town shall hold a public hearing on the issue of the layout and acceptance as public ways so listed within nine months after the effective date of this act at which time interested persons shall be given an opportunity to be heard. Within 21 days after said hearing, the planning board shall submit a communication to the board of selectmen with its recommendation as to which ways in said document should be laid out and accepted as public ways by said town.

The communication from the planning board shall be referred to said board of selectmen for the sole purpose of considering the proposal to lay out and accept as public ways the ways so listed. Within 45 days of such referral, said board of selectmen shall hold a public hearing on said proposal.

At least 14 days prior to the public hearing by said board of selectmen, written notice of the intention of the town to lay out and accept as public ways and the intention to hold a public hearing thereon shall be sent to the owners of land abutting or being a part of the ways so listed. In addition, notice of the town's intention to lay out and accept as public ways those ways so listed shall be published in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than 14 days prior to such hearing. Such notice shall also be posted in a conspicuous place in the town hall for a period

Chap. 93

of not less than 14 days prior to such hearing.

Said board of selectmen shall within 14 days of the public hearing vote as to which ways so listed should and should not be laid out and accepted as public ways by said town.

The town meeting may then vote to adopt, amend or reject the proposal to lay out and accept as public ways any or all of the ways listed.

If said town meeting approves the vote by a two-thirds vote of said town meeting, the ways contained in the final proposal shall be considered laid out and shall be accepted as public ways.

Approved April 23, 1998.

Chapter 94. AN ACT RELATIVE TO THE PROVISION OF NATURAL GAS SERVICE IN THE TOWN OF WAKEFIELD.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 34 of chapter 164 of the General Laws or any other general or special law to the contrary, the municipal gas and light department of the town of Wakefield is hereby authorized to purchase, own, lease or otherwise have an interest in any real or personal property located outside the limits of said town for purposes relating directly or indirectly to gaining access to or connecting with any natural gas pipeline or gas main and any equipment related thereto located outside the limits of said town including, but not limited to, any such pipeline, gas main or equipment owned or operated by El Paso Energy Corporation or an affiliate thereof or successor thereto.

SECTION 2. This act shall take effect upon its passage.

Approved April 23, 1998.

Chapter 95. AN ACT RELATIVE TO THE ASSESSMENT OF SEWER BETTERMENTS IN THE TOWN OF WEST BOYLSTON.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of West Boylston is hereby authorized to act as the board of sewer commissioners and shall have all the powers and duties conferred upon sewer commissioners under the General Laws.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the town of West Boylston is hereby authorized to assess interest on apportionments of sewer betterment assessments at a rate equal to the rate of interest chargeable to the town for the betterment to which the assessments relate or at a rate set forth in section 13 of chapter 80 of the General Laws as determined by the board of selectmen of said town.

SECTION 3. Notwithstanding the provisions of any general or special law to the

Chap. 95

contrary, the board of assessors of the town of West Boylston may, or upon request of the owner of the land shall, apportion all sewer assessments or unpaid balances thereof made under the provisions of chapter 80 of the General Laws into such number of equal annual portions, not exceeding 25, as determined by said board or as requested by the owner, as the case may be.

SECTION 4. Notwithstanding the provisions of any general or special law to the contrary, the board of selectmen of the town of West Boylston in making an order for the assessment of any sewer betterment under the provisions of chapter 80 of the General Laws or balance of any assessment apportioned in accordance with the provisions of section 13 of said chapter 80 shall upon the application of an owner of the real property assessed, if such owner is the head of a household of at least two persons, and the total income of the household is less than 50 per cent of the median income of the metropolitan area of which West Boylston is a part as such median income is determined from time to time by the department of housing and community development or any successor agency, enter into a deferral and recovery agreement with such owner on behalf of said town as otherwise provided by section 13B of said chapter 80.

SECTION 5. This act shall take effect upon its passage.

Approved April 23, 1998.

Chapter 96. AN ACT AUTHORIZING THE SUSPENSION OF CERTAIN LABOR LAWS IN AN EMERGENCY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the suspension of certain labor laws in an emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

The attorney general is hereby authorized, pursuant to Article XX of Part the First of the Constitution of the Commonwealth, to suspend until September 1, 1999 the application or operation of any provision of chapter 149 of the General Laws or any rule or regulation made thereunder which regulates, limits or prohibits the employment of minors over the age of 16. The attorney general may exercise such authority upon finding, after opportunity to be heard has been given to interested parties, that an emergency exists or that conditions of hardship in an industry, branch of an industry or individual establishment require or justify the suspension of any such law, rule or regulation. Any such suspension by the attorney general shall prescribe, and may be granted or limited to, the particular departments, operations or occupations within an industry, branch of an industry or individual establishment.

Approved April 23, 1998.

Chapter 97. AN ACT RELATIVE TO THE TOWN OF BARRE AND A MEMORANDUM OF UNDERSTANDING WITH PHOENIX PLAZA CORP. AND WARE RIVER RECREATIONAL CORP.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Barre is hereby authorized to enter into and implement the provisions of the agreement as set forth in the Memorandum of Understanding between the town of Barre, the Phoenix Plaza Corp. and the Ware River Recreational Corp. dated October 6, 1997.

Approved April 23, 1998.

Chapter 98. AN ACT RELATIVE TO THE PROSECUTION OF JUVENILE OFFENDERS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith the prosecution of juvenile offenders in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Subsection (a) of section 72 of chapter 119 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The divisions of the juvenile court department shall continue to have jurisdiction over children who attain their eighteenth birthday pending final adjudication of their cases, including all remands and retrials following appeals from their cases, or during continuances or probation, or after their cases have been placed on file, or for any other proceeding arising out of their cases. Except as provided in subsection (b), nothing herein shall authorize the commitment of a person to the department of youth services after he has attained his nineteenth birthday.

SECTION 2. Said section 72 of said chapter 119, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) If the commonwealth has proceeded by indictment, the divisions of the juvenile court department shall continue to have jurisdiction over such persons who attain their eighteenth birthday pending the final adjudication of their cases, including all remands and retrials following appeals from their cases, or pending the determination allowed under section 58, or during continuances or probation, or after their cases have been placed on file, or for any other proceeding arising out of their cases. Nothing herein shall authorize the commitment of a youthful offender to the department of youth services after he has attained his twenty-first birthday.

SECTION 3. Notwithstanding any language contained in section 72 of chapter 119 of the General Laws relating to the age limitation for persons over whom the juvenile court may exercise power and authority, as said section 72 appeared during all times relevant to the provisions of this section, the divisions of the juvenile court department and the juvenile sessions of the trial courts shall continue to have jurisdiction over persons whose cases were properly commenced in juvenile court, regardless of the current age of the person charged, pending final adjudication of such cases, including all remands and retrials following appeals from such cases, or during continuances or probation, or after such cases have been placed on file, or for any other proceeding arising out of such cases, unless such persons were transferred to another division of the trial court, in which case jurisdiction over such persons shall remain with such other division.

SECTION 4. Sections 1 and 2 of this act shall apply to complaints filed and indictments returned for offenses allegedly committed on or after October 1, 1996.

SECTION 5. Section 3 of this act shall apply to complaints filed and indictments returned for offenses allegedly committed between December 31, 1991 and September 30, 1996, inclusive; provided, however, that nothing in this act shall be deemed to confer jurisdiction on the juvenile court over persons who are charged with committing murder in the first or second degree, and who at the time of said murder had attained the age of 14, if said murder was allegedly committed on or after July 27, 1996.

Approved April 23, 1998.

Chapter 99. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR CERTAIN COLLECTIVE BARGAINING AGREEMENTS, FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith appropriations for the fiscal year ending June 30, 1998 and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 1998 and for certain other activities and projects in said fiscal year, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise herein or in said appropriation acts for the several purposes and subject to the conditions specified herein or in said appropriation acts and subject to the provisions of law regulating the disbursement

Chap. 99

of public funds, for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

SECTION 2.

JUDICIARY.

Supreme Judicial Court.

0321-0001 \$29,767

DISTRICT ATTORNEYS.

Suffolk District Attorney.

0340-0100 \$459,400

Eastern District Attorney.

0340-0300 \$104,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Division of Capital Planning and Operations.

1102-3206 \$662,000

Disabled Persons Protection Commission.

1107-2501 \$54,000

Civil Service Commission.

1108-1011 \$10,000

Group Insurance Commission.

1108-5200 \$4,000,000

1108-5500 \$162,035

Massachusetts Commission Against Discrimination.

1150-5100 \$60,730

Department of Revenue.

1201-0160 \$3,434,175

Information Technology Division.

1790-0107 \$5,800,000

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Department of Environmental Protection.

2200-0100 \$495,211

Metropolitan District Commission.

2440-2000 \$437,970

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Division of Medical Assistance.

4000-0315 \$1,547,000

4000-0318 \$700,000

Massachusetts Commission for the Blind.

4110-1000 \$158,500

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0100 \$37,390

Chap. 99*Office of Child Care Services.*

4130-3000	\$61,366
4130-3200	\$11,698,213
4130-3700	\$3,700,586

Department of Youth Services.

4200-0200	\$296,549
4200-0300	\$251,745

Department of Transitional Assistance.

4403-2110	\$1,654,069
4408-1000	\$3,819,653

Department of Public Health.

4516-1000	\$227,275
-----------------	-----------

Department of Social Services.

4800-0020	\$3,000,000
4800-0041	\$8,000,000

Department of Mental Retardation.

5920-1000	\$718,701
5920-2000	\$1,534,632

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.*Department of Highways.*

6010-0001	\$1,291,417
6030-7201	\$10,413,603
6030-7221	\$10,713,796

OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.*Division of Insurance.*

7006-0030	\$376,059
-----------------	-----------

Board of Higher Education.

7119-0100	\$444,000
-----------------	-----------

EXECUTIVE OFFICE OF PUBLIC SAFETY.*Criminal History Systems Board.*

8000-0110	\$461,016
-----------------	-----------

Board of Building Regulations and Standards.

8000-0161	\$28,500
-----------------	----------

Department of State Police.

8100-0000	\$949,902
-----------------	-----------

Registry of Motor Vehicles.

8400-0001	\$400,000
-----------------	-----------

Department of Correction.

8900-0001	\$2,355,685
8900-9999	\$700,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sums set forth herein shall be appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in the general appropriation act or other appropriation acts for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

- 1599-3833For a reserve to meet the cost for fiscal years 1993 to 1998, inclusive, of salary adjustments authorized by the Memorandum of Understanding dated June 4, 1997, between the commonwealth and the Alliance, SEIU, AFL-CIO (Unit 10), and to meet the cost of salary adjustments necessary to provide equal adjustments to employees employed in "confidential" positions which otherwise would be covered by said Memorandum of Understanding; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments for such "confidential" employees in accordance with the provisions of said Memorandum of Understanding which otherwise would cover said positions; and provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet the cost of said adjustments where the amounts otherwise available are insufficient for such purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$3,101,100
- 1599-3841For a reserve to meet the fiscal years 1997 and 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of trustees of the University of Massachusetts and the National Association of Government Employees, Locals 245 and 233; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet the costs of said adjust-

Chap. 99

	ments and benefits where the amounts otherwise available are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$689,000
1599-3842	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the board of higher education and the American Federation of State, County and Municipal Employees, Council 93, Local 1067; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$2,109,000
1599-3844	For a reserve to meet the fiscal year 1998 costs of salary adjustments and other economic benefits authorized by the collective bargaining agreement between the Middlesex sheriff's office and the International Brotherhood of Correctional Officers, Local 193, and to meet the fiscal year 1998 costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and benefits to employees employed in "confidential" positions which otherwise would be covered by said agreement; provided, that the personnel administrator, with the approval of the secretary of administration and finance, shall determine such salary adjustments and benefits for such "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which otherwise would cover said positions; provided further, that said secretary may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet said costs where the amounts otherwise available are insufficient for such purposes, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means	\$862,000

Chap. 99

- 1599-3849For a reserve to meet the fiscal year 1998 costs of salary adjustments authorized by the collective bargaining agreement between the University of Massachusetts and University Coalition One; provided, that the secretary of administration and finance may transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet the cost of said adjustments where the amounts otherwise available are insufficient for such purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$943,000
- 1599-3850For a reserve to meet the costs of consumer education and outreach incurred by the division of energy resources in the implementation of electric utility restructuring pursuant to the provisions of chapter 164 of the acts of 1997; provided, that the secretary of administration and finance may transfer funds from this item to other items of appropriation and allocations thereof for fiscal year 1998 in order to meet said costs; provided further, that notwithstanding the provisions of any general or special law to the contrary, a municipality or group of municipalities acting under the provisions of section 134 of chapter 164 of the General Laws may, pursuant to guidelines established by the division, apply to said division for a grant from the amount appropriated herein for the purpose of implementing educational campaigns that publicize the benefits of regional aggregation of electricity purchasing; and provided further, that no funds shall be expended from this item for the costs of full-time employees funded from the "AA" subsidiary as classified pursuant to the Massachusetts management accounting and reporting system. . . \$2,070,000
- 1599-3851For a reserve to meet the costs of electric utility restructuring incurred by the department of telecommunications and energy in implementing the provisions of chapter 164 of the acts of 1997; provided, that the secretary of administration and finance may transfer funds from this item to other items of appropriation and allocations thereof for fiscal year 1998 in order to meet such costs; provided further, that such costs shall include, but not be limited to, the compensation of

commissioners authorized by said chapter 164 and may include the costs of comprehensive financial auditing and the costs of contracted positions for legal and other services; and provided further, that funds from this item shall be expended to support not more than three full-time equivalent employees funded from the "AA" subsidiary as classified pursuant to the Massachusetts management accounting and reporting system. . . . \$810,190

1599-7001 For a reserve for costs associated with the early intervention program operated by the department of public health pursuant to the provisions of item 4513-1000 of section 2 of chapter 43 of the acts of 1997; provided, that said department shall submit the following information to the secretary of administration and finance and to the chairmen of the house and senate committees on ways and means: (a) a delineation of the actual caseload for said early intervention program for each of the months during the period from July 1, 1997 to February 28, 1998, inclusive; (b) an estimate of the projected caseload for said early intervention program during the period from March 1, 1998 to June 30, 1998, inclusive; (c) an estimate of the projected costs to be incurred by said early intervention program during the fiscal year 1998 accounts payable period, so-called; (d) the actual cost per case for said early intervention program for each month during the period from July 1, 1997 to February 28, 1998, inclusive; (e) an estimate of the projected cost per case for said early intervention program for each month during the period from March 1, 1998 to June 30, 1998, inclusive; and (f) an explanation of the methodology by which said department arrives at its caseload estimates and cost projections for said early intervention program; provided further, that said department shall submit the information required by clauses (a) to (f), inclusive, not later than 15 days after the effective date of this act; provided further, that the secretary of administration and finance may transfer funds from this item to said item 4513-1000 subject to a transfer plan which shall be filed in advance with the chairmen of the house and senate committees on ways and means; provided, however, that no funds shall be transferred or allocated from this item to any other item of appropriation until said department submits the information required by said clauses (a) to (f), inclusive, to said secretary of administration and finance

Chap. 99

and to the chairmen of the house and senate committees on ways and means; and provided further, that an amount not to exceed \$400,000 of the amount appropriated herein may be expended for costs incurred in a prior fiscal year \$3,273,550

1599-7003For a reserve to fund grants to county sheriffs to provide for the continued operation of county jails and houses of correction; provided, that funds appropriated herein shall be distributed by the county government finance review board pursuant to a plan of disbursement which shall be filed in advance with the house and senate committees on ways and means \$7,775,000
Local Aid Fund 100.0%

1599-7004For a reserve to meet the fiscal years 1997 and 1998 costs of salary and benefit adjustments and other economic benefits authorized for those employees of the supreme judicial court, the appeals court and the trial court who are covered by the collective bargaining agreement between the trial court of the commonwealth and the Office and Professional Employees International Union, Local 6 (AFL-CIO); provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1998 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$5,509,659

1599-7005For a reserve to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees of the supreme judicial court, the appeals court and the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal years 1997 and 1998 and for the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and economic benefits to employees who are not otherwise classified in any such collective bargaining unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations

thereof for fiscal year 1998 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means \$1,359,819

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Department of Social Services.

4800-0049For payment of prior years' expenses for the group care program. . . \$1,088,687

OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.

Department of Labor and Workforce Development.

7002-0103For payment of fiscal year 1997 expenses related to the operation of one-stop career centers, so-called \$508,391

SECTION 3. Chapter 25 of the General Laws is hereby amended by inserting after section 12N the following section:-

Section 12 O. There shall be established upon the books of the commonwealth a separate fund to be known as the Department of Telecommunications and Energy Trust Fund. There shall be credited to said fund all amounts collected pursuant to the second paragraph of section 18 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and shall be available for expenditure, without further appropriation, by the department of telecommunications and energy commission, for activities of the department related to the regulation of electric companies. Any unexpended balance in the fund at the close of a fiscal year shall remain in the fund and shall be available for expenditure in the following fiscal year.

SECTION 4. Said chapter 25 is hereby further amended by striking out section 18, as appearing in section 37 of chapter 164 of the acts of 1997, and inserting in place thereof the following section:-

Section 18. The commission is hereby authorized to make an assessment against each electric, gas, cable television, telephone and telegraph company under the jurisdictional control of the department and each generation company and supplier licensed by the department to do business in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the department of each of said companies derived from sales within the commonwealth of electric, gas, cable television, telephone and telegraph service, respectively, as shown in the annual report of each of said companies to the department. Said assessments shall be made at a rate not exceeding 0.2 per cent of such intrastate operating revenues, as shall be determined and certified annually by the commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department, exclusive of

Chap. 99

funds appropriated by the general court for the transportation division and for the cost of fringe benefits as established by the commissioner of administration pursuant to section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. The funds may be used to compensate consultants in hearings on petitions filed by companies subject to assessment under this section. Assessments made under this section may be credited to the normal operating cost of each company. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the department. Such assessments shall be collected by the department and credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

For the purpose of providing the department with additional operating funds for the regulation of electric companies, the commission may make a separate assessment proportionally against each electric company under the jurisdictional control of the department and each generation company and supplier licensed by the department to do business in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the department of each of such companies derived from sales within the commonwealth of electric service, as shown in the annual report of each of such companies to the department. Such assessment shall be made at a rate as shall be determined and certified annually by the commission as sufficient to produce an annual amount of not less than \$2,438,000 commencing in fiscal year 1998 and in each fiscal year thereafter, plus the costs of fringe benefits and indirect costs as established by the commissioner of administration pursuant to section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. The amount of such assessment may be increased by the commission annually by a rate not to exceed the most recent annual consumer price index as calculated for the northeast region for all urban consumers. Assessments made under this section may be credited to the normal operating cost of each company. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from the department. Such assessments shall be collected by the department, and credited to the Department of Telecommunications and Energy Trust Fund established by section 12 O.

A schedule of filing fees shall be determined annually by the commissioner of administration under the provisions of section 3B of chapter 7 for the following: (i) petitions for certificates of environmental impact and public need, provided, however, that such filing fee for any municipal corporation empowered to operate a municipal lighting plant under the provisions of section 35 or 36 of chapter 164 shall not exceed a maximum amount; and (ii) notices of intention to construct an oil facility, with a maximum amount per oil facility to be graduated in accordance with the expected capital investment in the facility.

Notwithstanding the provisions of section 20 of chapter 159 and section 94 of chapter 164, during any fiscal year in which such assessment is made, the department shall have no

authority to suspend the effective date of any rate, price or charge set forth in any schedule filed subsequent to January 1, 1977 by a telephone or telegraph company under the provisions of said chapter 159 or by a gas or electric company under the provisions of said section 94 of said chapter 164 for a period longer than six months; provided, however, that in the event that such six-month period expires on a Sunday or legal holiday, any rate, price or charge suspended under this section shall remain suspended until the day following the next day which is not a Sunday or legal holiday.

SECTION 5. Section 89 of chapter 71 of the General Laws, as appearing in section 2 of chapter 46 of the acts of 1997, is hereby further amended by striking out subsection (v) and inserting in place thereof the following subsection:-

(v) Notwithstanding the provisions of this section or any other general or special law to the contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state agency; and (ii) the appointing official of a member of the board of trustees of a charter school shall be deemed to be the commissioner of education. Members of boards of trustees of charter schools operating under the provisions of this section shall file a disclosure annually with the state ethics commission, the department of education, and the city or town clerk wherein such charter school is located. The form of the disclosure shall be prescribed by the ethics commission and shall be signed under penalty of perjury. Such form shall be limited to a statement in which members of the board of trustees shall disclose any financial interest that they or a member of their immediate families, as defined in section 1 of said chapter 268A, have in any charter school located in the commonwealth or in any other state or with any person doing business with any charter school.

Each member of a board of trustees of a charter school shall file such disclosure for the preceding calendar year with the commission within 30 days after becoming a member of such board of trustees, on or before September 1 of each year thereafter that such person is a member of such board and on or before September 1 of the year after such person ceases to be a member of such board; provided, however, that no member of a board of trustees shall be required to file such disclosure for the year in which he ceases to be a member of such board if he served less than 30 days in such year.

SECTION 6. Section 2 of chapter 43 of the acts of 1997 is hereby amended by striking out item 0330-0302 and inserting in place thereof the following item:-

0330-0302 For the cost of intensive supervision and community corrections programs; provided, that such programs shall include tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution and community incapacitation or restraint; provided further, that the number of placements in such programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that funds from this item shall be expended to cover the costs of such programs that are undertaken and administered by court probation offices and

county sheriffs' offices; provided further, that the executive director of the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with such probation offices and sheriffs' offices for the provision of such programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that such agreements and memoranda shall be entered into at the direction of said executive director; provided further, that expenditures from this item shall not be made until a spending and management plan for such programs has been submitted by said executive director to both the house and senate committees on ways and means for approval; provided further, that savings realized by an approved program of community corrections that result from contracting with the department of correction for electronic monitoring services may be used at the discretion of such program for expenditures that meet the purpose of this item; provided further, that any such discretionary expenditures shall not annualize to an amount that exceeds the amount of such savings; provided further, that said plan shall be so submitted not later than September 15, 1997; provided further, that said plan shall include the projected number of probationers to be served by each such program, including a description of the oversight and services provided to such probationers; and provided further, that not more than \$395,223 shall be expended from this item for a community corrections program within the office of the Essex county sheriff \$3,395,223

SECTION 7. Item 2100-2040 of said section 2 of said chapter 43 is hereby amended by inserting after the words "or fire science" the following words:- ; provided, that the department may make grants to public and nonpublic entities.

SECTION 8. Item 4130-1000 of said section 2 of said chapter 43 is hereby amended by striking out the words "19 years" and inserting in place thereof the following words:- 20 years.

SECTION 9. Item 4510-0600 of said section 2 of said chapter 43 is hereby amended by striking out the words "town of Rockland" and inserting in place thereof the following words:- the towns of Rockland, Hingham, Weymouth and Abington.

SECTION 10. Said section 2 of said chapter 43 is hereby amended by striking out item 4513-1012 and inserting in place thereof the following item:-

Chap. 99

4513-1012 The department of public health may expend an amount not to exceed \$21,500,000 from revenues received from federal cost-containment initiatives including, but not limited to, infant formula rebates and northeast dairy compact reimbursements, for the purpose of increasing the caseload of the WIC program \$21,500,000

SECTION 11. Item 5911-9999 of said section 2 of said chapter 43 is hereby amended by striking out the figure "\$11,860,475" and inserting in place thereof the following figure:- \$9,607,142.

SECTION 12. Said section 2 of said chapter 43 is hereby further amended by striking out item 7003-0601 and inserting in place thereof the following item:-

7003-0601 For the summer jobs youth-at-risk program, including the costs of administration; provided, that service levels shall be developed so as not to exceed the appropriation made available herein; provided further, that the same number of youths shall be served in fiscal year 1998 as were served in fiscal year 1997; provided further, that not more than \$3,050,000 of the amount appropriated herein shall be expended prior to June 1, 1998; and provided further, that expenditures made from this item shall be structured so that funding provided herein shall not annualize to an amount greater than \$3,050,000 in fiscal year 1999 \$6,100,000

SECTION 13. Said section 2 of said chapter 43 is hereby further amended by striking out item 7003-0901 and inserting in place thereof the following item:-

7003-0901 For a summer jobs youth-at-risk program; provided, that no funds appropriated herein shall be allotted or disbursed prior to the receipt of equal matching funds from private sources to any entity or municipality eligible for or requesting funds from this item; provided further, that an allotment and disbursement plan shall be submitted to the house and senate committees on ways and means prior to the expenditure of any funds appropriated herein; provided further, that not more than \$825,000 of the amount appropriated herein shall be expended prior to June 1, 1998; provided further, that expenditures made from this item shall be structured so that funding provided herein shall not annualize to an amount greater than \$825,000 in fiscal year 1999; provided further, that \$25,000 shall be provided in fiscal year 1999 for the Summer Nights program in the city of Haverhill; and provided further, that within 30 days of the effective date of this act the city of Haverhill shall report to the house and senate committees on ways and means how such funds shall be expended \$1,650,000

SECTION 14. Said section 2 of said chapter 43 is hereby amended by striking out item 7052-0007 and inserting in place thereof the following item:-

7052-0007	For grants and reimbursements to cities, towns, regional school districts and counties for the purposes of the school building assistance program under the provisions of chapter 645 of the acts of 1948; provided, that of the amount appropriated herein, the board of education may authorize one-time payments of the total reimbursement due to cities and towns for school buildings that are structurally unsound or otherwise in a condition jeopardizing the safety of school children; and provided further, that notwithstanding the provisions of any general or special law to the contrary, \$400,000 shall be made available to the town of Saugus in conjunction with school building emergency repairs	\$2,000,000
Local Aid Fund	100.0%	

SECTION 15. Said section 2 of said chapter 43 is hereby further amended by striking out item 7061-9010 and inserting in place thereof the following item:-

7061-9010	For fiscal year 1998 reimbursements to certain cities, towns and regional school districts pursuant to the provisions of chapter 46 of the acts of 1997	\$2,970,293
Local Aid Fund	100.0%	

SECTION 16. Said section 2 of said chapter 43 is hereby further amended by striking out item 8700-1140 and inserting in place thereof the following item:-

8700-1140	The state quartermaster may expend revenues collected up to a maximum of \$340,000 accrued from fees for the nonmilitary rental or use of armories for the costs of utilities and maintenance; provided, that the state quartermaster may expend funds from this item for salaries, subsistence, quarters and associated costs for national guard soldiers ordered to perform state missions pursuant to the provisions of chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or nongovernmental entity to defray such expenses	\$340,000
-----------	--	-----------

SECTION 17. Said section 2 of said chapter 43 is hereby further amended by striking out item 8900-8888 and inserting in place thereof the following item:-

8900-8888	For costs associated with electricity, natural gas and other fuel for buildings of the department of correction; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1998, all funds appropriated herein shall be scheduled in the GG subsidiary, so-called; provided further, that after said date, the commissioner of	
-----------	---	--

correction, with the approval of the secretary of administration and finance, may transfer from said GG subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein if said secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by said department of correction for costs associated with electricity, natural gas and other fuel for buildings of said department does not exceed the amount appropriated herein; (2) that the department does not require any supplemental appropriations in any of its other items of appropriation; (3) that said department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that said department has not expended any funds for costs associated with electricity, natural gas and other fuel for buildings in any of its other items of appropriation; provided further, that said secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; provided further, that no funds shall be scheduled in a subsidiary which is not explicitly referenced herein; and provided further, that notwithstanding any provisions of this item to the contrary, an amount not to exceed \$545,244 may be expended from this item from the EE subsidiary, so-called, for costs incurred in a prior fiscal year. . . \$9,693,244

SECTION 18. Section 265 of said chapter 43 is hereby amended by striking out the words "at Hole #7".

SECTION 19. Section 285 of said chapter 43 is hereby amended by striking out the words "October 1, 1997" and inserting in place thereof the following words:- April 1, 1998.

SECTION 20. Section 334 of chapter 164 of the acts of 1997 is hereby amended by striking out the words "February 15, 1998" and inserting in place thereof the following words:- June 15, 1998.

SECTION 21. Section 2A of chapter 226 of the acts of 1997 is hereby amended by striking out the item number "0521-0002" and inserting in place thereof the following item number:- 0521-0004.

SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, nursing facility prospective rates of payment established by the division of health care finance and policy for 1998 may be established as of a different date than January 1 and may be developed using the costs of any year which said division, at its discretion and after

public hearing, shall determine appropriate; provided, however, that in order to allow said division necessary time to complete its development and promulgation of the rate methodology for 1998, prospective rates of payment for nursing facility services established by said division for 1997 under 114.2 CMR 5.00 and such rates established for periods including 1997 under a settlement agreement, shall remain in effect for 1998 until 1998 rates shall be promulgated; and provided further, that said 1998 rates shall be paid for nursing facility services provided on or after February 1, 1998.

SECTION 23. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of capital planning and operations may enter into a lease for all or any portion of the federal post office and courthouse building at Post Office square in the city of Boston on such terms and conditions as may be determined by said commissioner and the chief justice for administration and management of the trial court for use by the courts of the commonwealth; provided, that said commissioner may expend any bond funds authorized in prior capital outlay acts to make any improvements to said federal post office and courthouse building deemed appropriate or necessary by said commissioner and said chief justice for the use of said building by the courts of the commonwealth.

SECTION 24. Notwithstanding the provisions of any general or special law to the contrary, the cities of Everett, Malden, Marlborough, Medford, Somerville, Waltham and Woburn and the towns of Arlington, Ashby, Ashland, Ayer, Bedford, Billerica, Boxborough, Concord, Dracut, Dunstable, Groton, Hopkinton, Hudson, Lexington, Lincoln, Littleton, Maynard, Natick, Sherborn, Shirley, Stoneham, Stow, Sudbury, Tewksbury, Tyngsborough, Wayland, Westford, Weston, Wilmington and Winchester shall be deemed to have accepted the provisions of section 147A of chapter 140 of the General Laws and shall enact by-laws to provide for the functions performed by the former government of Middlesex county with respect to dogs pursuant to sections 136A to 174D, inclusive, of said chapter 140.

SECTION 25. The balance of funds remaining in the dog fund, so-called, of the former government of Middlesex county as of July 11, 1997 shall be disbursed forthwith by the state treasurer in the manner prescribed by section 172 of chapter 140 of the General Laws to the treasurer of each city and town within said Middlesex county, who shall maintain a separate dog fund consistent with the by-laws adopted by said cities and towns and sections 136A to 174D, inclusive, of said chapter 140.

SECTION 26. Notwithstanding the provisions of item 4000-0320 of section 2 of chapter 43 of the acts of 1997 or any other general or special law to the contrary, the division of medical assistance shall make available through an interagency service agreement with the department of public health an amount not to exceed \$6,300,000 from said item 4000-0320 for the purposes of item 4590-0906 of said section 2 of said chapter 43. Said funds shall be made available for the purposes of said item 4590-0906 regardless of the availability of federal reimbursement. Nothing in this section shall be construed to make or authorize an increase in the retained revenue ceiling, so-called, of item 4000-0320. The division of medical assistance shall enter into such interagency service agreement not later than ten days after the effective date of this act.

SECTION 27. The proposed Sanitary/Bathhouse, as referenced in section 4.3.3 of the "Plan for the Future of Boston Harbor Beaches, Dorchester Shores Beach Restoration Program, Savin Hill/Inner Malibu, Dorchester, Massachusetts, Interim Assessment", December 22, 1997, EOEa No. 10113, shall hereafter be known as "The Robert F. O'Sullivan, Sr. memorial bathhouse".

SECTION 28. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any remaining balance on the effective date of this act in the Residential Conservation Service Trust Fund to the Department of Telecommunications and Energy Trust Fund established by section 12 O of chapter 25 of the General Laws.

SECTION 29. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any remaining balance on the effective date of this act in the Integrated Resource Management Trust Fund to the Department of Telecommunications and Energy Trust Fund established by section 12 O of chapter 25 of the General Laws.

SECTION 30. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any remaining balance on the effective date of this act in the Fuel Charge Bureau Trust Fund to the Department of Telecommunications and Energy Trust Fund established by section 12 O of chapter 25 of the General Laws.

SECTION 31. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any remaining balance on the effective date of this act in the Special Assessment Trust Fund to the Department of Telecommunications and Energy Trust Fund established by section 12 O of chapter 25 of the General Laws.

SECTION 32. The division of health care finance and policy shall conduct a study of the impact of 1998 nursing home rates on the nursing home industry in the commonwealth. Such study shall include an examination of the impact of such rates on the number of nursing home beds and the impact on the geographic distribution of nursing home beds in the commonwealth. A report of such study shall be filed with the house and senate committees on ways and means within six months of the effective date of this act.

SECTION 33. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, a regional council of governments or any organization established by a regional council of governments for the benefit of two or more of the entities contained within such regional council of governments or a sheriff's department or subdivision thereof shall be entitled to purchase goods and services from a vendor located within the geographic area comprising such regional council of governments or, in the case of a sheriff's department, the primary geographic area served by such sheriff's department, even if such vendor is not under contract with the commonwealth to provide such goods and services; provided, however, that the costs for any goods or services purchased from a local vendor shall not exceed the amount which would be paid for such goods and services if such

Chap. 99

items were to be purchased from a vendor which is under contract with the commonwealth to provide such goods and services.

SECTION 34. Notwithstanding the provisions of any general or special law to the contrary, no funds from any item appropriated to or allocated by the department of social services, the department of youth services, the department of mental health or the department of education shall be expended within one year of the effective date of this act for any purpose that would result in the provision of treatment and housing for youthful sexual offenders or those that have been categorized by any of said departments as at-risk of becoming sexual offenders that requires the expansion or reconfiguration of any facility owned or operated by the private, nonprofit provider known as Harbor Schools, Inc. currently funded by any of said departments that does not currently house and treat adjudicated youthful sexual offenders.

SECTION 35. Sections 24 and 25 shall take effect as of July 11, 1997.

Approved April 29, 1998.

Chapter 100. AN ACT FURTHER REGULATING THE CONDUCT OF MUNICIPAL EMPLOYEES.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to allow forthwith certain conduct by municipal employees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 17 of chapter 268A of the General Laws is hereby amended by adding the following paragraph:-

This section shall not prevent a municipal employee from applying on behalf of anyone for a building, electrical, wiring, plumbing, gas fitting or septic system permit, nor from receiving compensation in relation to any such permit, unless such employee is employed by or provides services to the permit-granting agency or an agency that regulates the activities of the permit-granting agency

Approved May 1, 1998

Chapter 101. AN ACT RELATIVE TO NOTIFYING EMPLOYEES OF THE RIGHT TO COLLECT UNEMPLOYMENT COMPENSATION.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to notify employees forthwith of the right to collect unemployment compensation, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 62A of chapter 151A of the General Laws, inserted by section 32 of chapter 88 of the acts of 1997, is hereby amended by striking out subsection (e).

SECTION 2. Said section 62A of said chapter 151A is hereby further amended by adding the following subsection:-

(g) Each employer shall post at each site operated by the employer, in a conspicuous place, accessible to employees, the following information: the name and mailing address of the employer, the identification number assigned to the employer by said division, instructions on how to file a claim for unemployment compensation, the address and telephone number of the regional office of said division located nearest the work site, and the telephone number of the teleclaim information line. Each failure to post the information described herein shall result in a written warning by said division to the employer for a first violation, and thereafter shall result in the assessment of a civil fine of \$100 for a second violation, \$250 for a third violation, and \$500 for a fourth and subsequent violations. Said division shall collect all fines assessed for violations of this subsection for deposit into the General Fund.

Each employer shall issue to every separated employee, as soon as practicable, but not to exceed 30 days from the last day said employee performed compensable work, written information furnished or approved by said division which shall contain the name and mailing address of the employer, the identification number assigned to the employer by said division, instructions on how to file a claim for unemployment compensation, the address and telephone number of the regional office which serves the recipient, and the telephone number of the teleclaim information line. Delivery is made when an employer provides such information to an employee in person or by mail to the employee's last known address. The waiting period under section 23 for an employee who did not receive the information required by this paragraph and who failed to file timely for benefits, shall be the Sunday of the initial week such employee would have been eligible to receive unemployment compensation. Each employer shall have the burden of demonstrating compliance with the provisions required herein.

SECTION 3. Section 1 of this act shall take effect as of November 13, 1997.

Approved May 1, 1998.

Chapter 102. AN ACT RELATIVE TO THE MASSACHUSETTS CONGREGATIONAL CHARITABLE SOCIETY.

Be it enacted, etc., as follows:

The third paragraph of chapter 77 of the acts of 1785 is hereby amended by inserting after the word "Commonwealth", in line 7, the following words:- or within the state of Maine.

Approved May 1, 1998.

Chapter 103. AN ACT PROVIDING TENURE OF OFFICE FOR DENNIS P. GRADY AS CHIEF OF THE POLICE DEPARTMENT IN THE TOWN OF MENDON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, Dennis P. Grady, chief of the police department of the town of Mendon, shall be considered to have tenure in said office as defined in section 126 of chapter 41 of the General Laws.

SECTION 2. This act shall take effect upon its passage.

Approved May 1, 1998.

Chapter 104. AN ACT FURTHER REGULATING THE PRACTICE OF PHARMACY.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 94C of the General Laws is hereby amended by striking out the definition of "Written prescription", as appearing in the 1996 Official Edition, and inserting in place thereof the following definition:-

"Written prescription", a lawful order from a practitioner for a drug or device for a specific patient that is communicated directly to a pharmacist in a licensed pharmacy; provided, however, that "written prescription" shall not include an order for medication which is dispensed for immediate administration to the ultimate user by a practitioner, registered nurse or licensed practical nurse.

SECTION 2. Section 18 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 38, the words "a contiguous" and inserting in place thereof the following word:- another.

SECTION 3. Subsection (c) of section 20 of said chapter 94C, as so appearing, is hereby amended by adding the following sentence:- The requirements of this subsection shall not apply to controlled substances in Schedule VI of section 3.

Chap. 104

SECTION 4. Subsection (a) of section 23 of said chapter 94C, as so appearing, is hereby amended by striking out, in line 2, the word "five" and inserting in place thereof the following figure:- 30.

SECTION 5. Subsection (d) of said section 23 of said chapter 94C, as so appearing, is hereby amended by adding the following words:- ; provided further, that subject to regulations of the department and the board of pharmacy, prescriptions for implantable infusion pumps consisting of Schedule II or Schedule III controlled substances may be filled for a maximum of 90 days.

SECTION 6. Said section 23 of said chapter 94C, as so appearing, is hereby further amended by striking out subsection (g) and inserting in place thereof the following subsection:-

(g) Unless otherwise prohibited by law, a prescription shall be (1) written in ink, indelible pencil or by other means; or (2) transmitted electronically; and (3) signed by the prescriber.

SECTION 7. Said chapter 94C is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:-

Section 24. (a) If the commissioner determines that a research subject or patient is receiving a controlled substance from more than one source and in quantities which he determines to be harmful to the health of such research subject or patient, said commissioner shall so notify the practitioners who have dispensed the controlled substance.

(b) In order to prevent the dispensing of controlled substances to the same individual from multiple sources or the unlawful diversion of controlled substances, the commissioner shall, pursuant to the provisions of chapter 30A, adopt rules and regulations for carrying out the provisions of this section.

Approved May 1, 1998.

Chapter 105. AN ACT RELATIVE TO THE SPECIAL POLICE FORCE OF THE TOWN OF WELLESLEY.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 330 of the acts of 1946 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The selectmen of said town may forthwith appoint not more than 50 persons to said special police force and may thereafter fill such vacancies as may from time to time occur therein; provided, however, that preference shall be given to residents of said town, if qualified, and that said vacancies or need for additional members shall be advertised in at least one newspaper of local circulation within said town.

SECTION 2. This act shall take effect upon its passage.

Approved May 1, 1998.

**Chapter 106. AN ACT RELATIVE TO THE RETIREMENT ALLOWANCE OF
ROBERT LALLY OF THE TOWN OF WELLESLEY.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 7 of chapter 32 of the General Laws, the disability retirement allowance provided to retired police officer Robert Lally of the town of Wellesley under said section 7 shall be increased from its present 72 per cent of his last 12 months regular compensation to 100 per cent, or to an amount equal to the regular rate of compensation which he would have been paid had he continued in service as a police officer of said town at the grade held by him at the time of his retirement, whichever is higher.

SECTION 2. This act shall take effect upon its passage.

Approved May 1, 1998.

**Chapter 107. AN ACT RELATIVE TO THE ASSESSMENT OF BETTERMENTS IN
THE TOWN OF HINSDALE.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 13 of chapter 80 of the General Laws or any other general or special law to the contrary, the board of assessors of the town of Hinsdale may, and at the request of the owner of the land assessed shall, apportion all assessments of betterments or any unpaid balances thereof made under said chapter 80, into such number of equal portions, not exceeding 40, as is determined by said board of assessors, or as is requested by the owner of the land assessed, as the case may be, but no one of such portions shall be less than \$5. Except as otherwise provided herein, the provisions of said chapter 80 shall apply to all assessments made by the town of Hinsdale thereunder.

SECTION 2. This act shall take effect upon its passage.

Approved May 1, 1998.

**Chapter 108. AN ACT AUTHORIZING EVAN GOLANN AND DAVID J.
BERGERON TO TAKE THE STATE POLICE EXAMINATION
NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith Evan Golann and David J. Bergeron to take an imminent state police examination notwithstanding the maximum age requirement, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Chap. 108

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 10 of chapter 22C of the General Laws regarding the maximum age of applicants for initial enlistment as uniformed members of the state police, Evan Golann shall be eligible to take the next competitive examination for appointment for initial enlistment as a uniformed member of the state police and, provided he meets all other requirements, shall be eligible for appointment.

SECTION 2. Notwithstanding the provisions of said section 10 of said chapter 22C regarding the maximum age of applicants for initial enlistment as uniformed members of the state police, David J. Bergeron shall be eligible to take the next competitive examination for appointment for initial enlistment as a uniformed member of the state police and, provided he meets all other requirements, shall be eligible for appointment.

SECTION 3. The provisions of this act relative to the eligibility for examination shall apply to the test administered on February 7, 1998, and eligibility for appointment as a result of taking said test shall apply to the appointment of two classes on or after February 7, 1998 or for one year following the effective date of this act, whichever first occurs.

The foregoing was laid before the Governor on the Twenty-first of April, 1998 and after ten days had the force of law as prescribed by the Constitution as it was not returned by him to the branch in which it originated with his objections thereto within that time.

Chapter 109. AN ACT PROVIDING EMPLOYEE LEAVE FOR CERTAIN FAMILY OBLIGATIONS.

Be it enacted, etc., as follows:

Chapter 149 of the General Laws is hereby amended by inserting after section 52C the following section:-

Section 52D. (a) As used in this section, terms shall have the meanings assigned to them by the federal act, notwithstanding any contrary provision of section 1 of this chapter. In addition, the following terms shall have the following meanings:

"Elderly relative", an individual of at least 60 years of age who is related by blood or marriage to the employee, including a parent.

"Federal act", sections 101 to 105, inclusive, of the Family and Medical Leave Act of 1993, 29 U.S.C. sections 2611 to 2615, inclusive, as it may be amended.

"School", a public or private elementary or secondary school; a Head Start program assisted under the Head Start Act, 42 U.S.C. sections 9831 et seq.; and a children's day care facility licensed under chapter 28A.

(b) An eligible employee shall be entitled to a total of 24 hours of leave during any 12-month period, in addition to leave available under the federal act, to:

Chap. 109

(1) participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;

(2) accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and

(3) accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

(c) Unless this section provides otherwise, the terms of the federal act shall apply to leave under this section. As provided in section 102(d)(2)(A) of the federal act, 29 U.S.C. section 2612(d)(2)(A), an eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for any of the leave provided under this section, but nothing in this section shall require an employer to provide paid sick leave or paid medical leave in any situation in which the employer would not normally provide any such paid leave. Leave under this section may be taken intermittently or on a reduced leave schedule.

(d) If the necessity for leave under this section is foreseeable, the employee shall provide the employer with not less than seven days' notice before the date the leave is to begin. If the necessity for leave is not foreseeable, the employee shall provide such notice as is practicable.

(e) An employer may require that a request for leave under this section be supported by a certification issued at such time and in such manner as the attorney general may by regulation require.

(f) The attorney general shall enforce this section, and may obtain injunctive or declaratory relief for this purpose. Violation of this section shall be subject to the second paragraph of section 150 and to section 180.

Approved May 6, 1998.

Chapter 110. AN ACT CHANGING THE NAME OF THE TOWN OF GAY HEAD TO THE TOWN OF AQUINNAH.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Gay Head in the county of Dukes County shall be designated and known as the town of Aquinnah.

Approved May 7, 1998.

Chapter 111. AN ACT TRANSFERRING CONTROL OF A CERTAIN PARCEL OF PARK LAND IN THE CITY OF HOLYOKE.

Be it enacted, etc., as follows:

The parks and recreation commission of the city of Holyoke is hereby authorized to transfer care, custody, management and control of a certain parcel of park land located in said city to the city council of said city. Said parcel is described as follows:-

Point of Beginning pursuant to the layout of Interstate Highway 91 in Holyoke, dated May 5, 1964, known as Layout Number 5395 is as follows:

Beginning at a point from an angle point on the westerly line of Interstate Route 91, located at station 180 + 00, 310.00 feet N 50° - 46' - 29" W; thence,

From an angle point on the Westerly line of I-91 a distance of 85.00 feet at a bearing of S 29° - 52' - 33" W; thence,

A distance of 100.00 feet at a bearing of N 60° - 07' - 27" W to the point of beginning; thence

Description of Locus:

N 60° - 07' - 27" W a distance of 100.00 feet; thence turning at a 90° angle,

S 29° - 52' - 33" W a distance of 50.00 feet; thence turning at a 90° angle,

S 60° - 07' - 27" E a distance of 100.00 feet; thence turning at a 90° angle,

N 29° - 52' - 33" E a distance of 50 feet to the point of beginning.

Said parcel being a 50 feet by 100 feet rectangular portion of Community Field near Scott's Tower with an area of approximately 5,000 square feet.

Approved May 7, 1998.

Chapter 112. AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO USE CERTAIN PARK LAND FOR GENERAL MUNICIPAL PURPOSES.

Be it enacted, etc., as follows:

The town of Nantucket is hereby authorized to change the municipal use of certain land shown on the Nantucket Assessors Map 42.3.2 as parcel 26, from park and recreation purposes pursuant to terms of certain restrictions imposed under the Federal Land and Water Conservation Fund program, P.L. 88-586, 78 Stat 897, held by said town pursuant to section 3 of chapter 45 of the General Laws to new general municipal uses except for the express reservation of 60 parking spaces designated for use in connection with the town pier, subject to approval of replacement parcels as specified in clauses (1) to (7), inclusive, of section (i) in Article 90 of the 1997 annual town meeting in accordance with all applicable requirements of the United States National Park Service and the executive office of environmental affairs.

Approved May 7, 1998.

Chapter 113. AN ACT PROVIDING FOR THE LICENSING OF PUB BREWERIES.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 138 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the definition of "Malt beverage" the following two definitions:-

"Pub brewer", a person who is licensed to operate a pub brewery under section 19D. "Pub brewery", a plant or premise licensed under sections 12 and 19D where malt beverages are authorized to be produced and sold and where alcoholic beverages or wine or malt beverages only are authorized to be sold for consumption on the premises according to commission regulations.

SECTION 2. Section 12 of said chapter 138, as so appearing, is hereby amended by inserting after the word "hotel", in line 3, the following words:- , a pub brewer.

SECTION 3. Said section 12 of said chapter 138, as so appearing, is hereby further amended by striking out the thirteenth paragraph and inserting in place thereof the following paragraph:-

A common victualler who holds a license pursuant to this section may provide on premises sample wine or malt beverage tasting; provided however, that such licensee shall not solicit orders for wine or malt for off premises consumption; and provided further, that any such wine tasting shall be limited to one ounce per serving and any such malt beverage tasting shall be limited to two ounces per serving and food shall be served in conjunction with any such wine or malt beverage tasting.

SECTION 4. The second paragraph of section 15 of said chapter 138, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following two sentences:- Any such licensee may provide, without charge, on premises sample wine or malt beverage tastings for prospective customers available for sale on such premises; provided, however, that no single serving of wine shall exceed one ounce and no single serving of malt beverages shall exceed two ounces. A licensee who holds a license according to the provisions of this section may also conduct on premise sample wine or malt beverage tasting in restaurants and function rooms licensed under the provisions of section 12; provided, however, that the holder of a license pursuant to this section shall not solicit orders for off premises consumption; provided, further, that the holder of a license issued pursuant to the provisions of section 12 shall control the dispensing of wine or malt beverage samples on his premises; and provided, further, that food shall be served in conjunction with such wine or malt beverage tasting conducted on the premises of the holder of a license issued pursuant to said section 12.

SECTION 5. Section 19A of said chapter 138, as so appearing, is hereby amended by striking out, in line 3, the words "eighteen, eighteen A, nineteen B or nineteen C," and inserting in place thereof the following:- 18, 18A, 19B, 19C or 19D.

SECTION 6. Said chapter 138 is hereby further amended by inserting after section 19C the following section:-

Section 19D. (a) The commission shall issue a pub brewery license to an applicant who is a citizen or permanent legal resident of the commonwealth and to applying partnerships and to applying corporations organized under the laws of the commonwealth or organized under the laws of any other state and admitted to do business in the commonwealth and to applying limited liability companies or limited liability partnerships organized under the laws of the commonwealth unless:

(1) such person does not comply with application procedures required by the commission;

(2) the commission determines that such applicant is not of responsible character;

(3) a church or school located within 500 feet of the brewery premises has objected to the issuance of such license in accordance with the provisions of section 16C and the commission finds that the pub brewery premises are detrimental to the spiritual activities of such church;

(4) the commission determines that the applicant retains or owns an interest, directly or indirectly, in the business of a licensee under section 15 or a business which would be licensed under said section 15 if it were located within the commonwealth;

(5) the commission determines that the applicant retains or owns an interest, directly or indirectly, in a business license under section 18 or a business which would be licensed under said section 18 if it were located within the commonwealth;

(6) the commission determines that the applicant retains or owns an interest, directly or indirectly, in any activity or in any business directly or indirectly engaged in the business of manufacturing any alcoholic beverages either within or outside of the commonwealth, except any interest, directly or indirectly, in a pub brewery license under this section or any business which would be licensed as a pub brewery under this section if it were located within the commonwealth;

(7) the commission determines that the applicant retains or owns an interest, directly or indirectly, in the business of a holder of a certificate issued under section 18B;

(8) the applicant has not furnished the requisite license fee or bond; or

(9) the commission determines that the co-partners, corporate officials or stockholders of the applicant do not meet the requirements of clauses (2), (4), (5), (6), (7) and (8), or that the manager or agent intended to conduct the pub brewery business on the applicant's behalf does not meet such requirements, or that such co-partners, officials, stockholders, agents or managers remain undisclosed.

(b) The commission may, on its own motion, and shall, upon the written request of an applicant who has been refused a pub brewery license or has been refused transfer or renewal of such a license, hold an adjudicatory hearing, notice of which shall be mailed to the applicant at the address provided in his application. Such hearing shall be conducted before the commission or a member thereof. The commission shall present its reasons for refusing to issue, transfer or renew such license. The applicant may appear in person or by counsel, cross-examine witnesses for the commission and present evidence. Such hearing shall be stenographically or sound recorded. The commission shall decide within 30 days of

the completion of the hearing whether to issue the pub brewery license or grant the transfer or renewal. If the commission refuses to grant the license, transfer or renewal following the hearing, notice thereof in writing shall be mailed to the applicant. In all such cases, the commission shall keep on file a statement in the form of an opinion of its reasons for such refusal and shall furnish a copy thereof to the applicant.

(c) An applicant who has appeared before the commission at any such hearing and who has been refused a pub brewery license or the transfer or renewal thereof may appeal such refusal to the superior court of the county wherein the applicant resides or has his principal place of business within the commonwealth or to the superior court for Suffolk county.

(d) Every applicant for an original pub brewery license or for a transfer thereof shall, within seven days after filing an application with the commission, send written notice of his application by registered mail, return receipt requested, to:

(1) each school which offers instruction and training to children of compulsory school age in accordance with sections 1 and 4 of chapter 71 and which is located within a radius of 500 feet from the premises on which the pub brewery is to be operated; and

(2) each church, as defined in section 16C, which is located within a radius of 500 feet of such premises.

The notice hereunder shall state that the church or school has the right to object under said section 16C to the issuance or transfer of the pub brewery license. If the authorities in charge of any such school or church complain to the commission in writing that a pub brewery license has been issued or transferred without the mailing of the requisite notice and that they object to such an issuance or transfer, the commission shall hold a hearing to determine whether the notice was mailed. If, after a hearing, the commission determines that adequate notice was not mailed as required, the commission shall cancel the pub brewery license unless:

(1) such school or church had actual notice of the application and of the right to object under said section 16C prior to the issuance or transfer; or

(2) such school or church did not complain as soon as possible after actual notification of the application and of the right to object. Any pub brewer aggrieved by the cancellation of his license by said commission or any school or church aggrieved by the refusal of the commission to cancel such license may appeal such decision as provided herein.

(e) A pub brewer may operate a pub brewery under such conditions as the commission may prescribe by regulation.

(f) A pub brewer may import into the commonwealth malt, cereal grains, fermentable sugars and hops but may not so import malt beverages or alcohol.

(g) A pub brewer may sell malt beverages or malt beverage products produced by the pub brewery or produced for the pub brewery and sold under the pub brewery name:

(1) at wholesale to any person holding a valid wholesalers' and importers' license under section 18;

(2) at wholesale to churches and religious societies, educational institutions, incorporated hospitals, homes for the aged, manufactures of food products and manufacturers of drugs and chemicals as authorized by and subject to the provisions of section 28;

(3) at wholesale to any person in any state or territory in which the importation and sale of malt beverages is not prohibited by law; and

(4) at wholesale to any person in a foreign country.

(h) A pub brewer may be licensed as a keeper of a pub brewery by the local licensing authorities subject to the prior approval of the commission to sell all alcoholic beverages or only wines and malt beverages, as the case may be, for consumption on the pub brewery premises in accordance with the pertinent provisions of section 12 and such rules and regulations as the commission may prescribe. A pub brewer licensed under section 12 may not sell at retail to consumers for off premises consumption malt beverages or malt beverage products not produced by the pub brewery on the pub brewery premises or produced for the pub brewery and sold under the pub brewery brand name. All retail sales shall be made on the pub brewery premises. A pub brewer may sell at retail by the bottle, not to exceed two gallons, to consumers for consumption off the pub brewery premises, malt beverages or malt beverage products produced by the pub brewery and sold under the pub brewery brand name in accordance with such rules and regulations as the commission may prescribe.

(i) All malt beverages produced by the pub brewery or produced for the pub brewery and sold under the pub brewery brand name and sold by a licensee hereunder shall be sold and delivered in such manner and under such conditions and with such labels or other marks to identify the producer as the commission may prescribe.

(j) In no event shall less than 50 per cent of the malt beverages or malt beverage products sold under paragraphs (g) and (h) be produced on the pub brewery premises in any one calendar year.

(k) Every pub brewer licensed under this section shall keep such records as the commission may prescribe and shall file with the commission whenever and as often as it may require duplicate copies of such records. The commission shall at all times, through its designated officers or agents, have access to all books, records or other documents of every licensed pub brewer relating to the licensee's pub brewery business.

(l) The annual license fee for each pub brewer in respect of each pub brewery shall be computed based on the malt beverage barrelage produced by the pub brewery as follows:

5,000 barrels or less per year:	\$1,000 per year
More than 5,000 but less than 60,000 barrels per year:	\$2,000 per year
60,000 barrels or more per year:	\$3,000 per year

For the above stated purposes, a barrel shall be 31 gallons.

(m) Every applicant for a pub brewery license shall, at the time of filing of an application, pay the minimum license fee. Persons holding pub brewery licenses shall report to the commission annually at the end of each year covered by the license the amount of malt

Chap. 113

beverages produced during such year together with copies of all excise filings due and payments made pursuant to the provisions of section 21. If the fee paid is less than the fee due for the total amount of such malt beverages produced, the licensee shall pay forthwith the amount of the excess fee under this section.

SECTION 7. Section 21 of said chapter 138, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the word "nineteen C" and inserting in place thereof the following words:- 19C and every pub brewer under section 19D,.

SECTION 8. Section 28 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "eighteen, nineteen, nineteen B or nineteen C" and inserting in place thereof the following:- 18, 19, 19B, 19C or 19D.

SECTION 9. Said chapter 138 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. No person shall receive a license or permit under this chapter who is under 21 years of age. Whoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 12 or 15, delivers or procures to be delivered in any public room or area of such establishment if licensed under section 12, 15, 19B, 19C or 19D or in any area of such establishment if licensed under said section 15, 19B, 19C or 19D any such beverages or alcohol to or for use by a person who he knows or has reason to believe is under 21 years of age or whoever procures any such beverage or alcohol for a person under 21 years of age in any establishment licensed under section 12 or procures any such beverage or alcohol for a person under 21 years of age who is not his child, ward or spouse in any establishment licensed under said section 15, 19B, 19C or 19D shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than six months or both. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol.

Notwithstanding the provisions of clause (14) of section 62 of chapter 149, a licensee under this chapter may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.

SECTION 10. Section 70 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "eighteen, nineteen, nineteen B, nineteen C or seventy-six" and inserting in place thereof the following:- 18, 19, 19B, 19C, 19D or 76.

Approved May 7, 1998.

Chapter 114. AN ACT RELATIVE TO THE PRACTICE OF ACUPUNCTURE.

Be it enacted, etc., as follows:

SECTION 1. Section 158 of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out clause (i).

SECTION 2. Section 161 of said chapter 112 is hereby repealed.

Approved May 14, 1998.

Chapter 115. AN ACT RELATIVE TO COUNTERFEITING.

Be it enacted, etc., as follows:

Chapter 266 of the General Laws is hereby amended by adding the following section:-

Section 147. (a) For purposes of this section, the following words shall have the following meanings:-

"Counterfeit mark", any unauthorized reproduction or copy of intellectual property, or intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property.

"Intellectual property", any trademark, service mark, trade name, label, term, device, design or word that is (1) adopted or used by a person to identify such person's goods or services, and (2) registered, filed or recorded under the laws of the commonwealth or of any other state, or registered in the principal register of the United States Patent and Trademark Office.

"Retail value", the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark; provided, however, that in the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

(b) Whoever willfully manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses with intent to sell or distribute any item or services bearing or identified by a counterfeit mark shall be punished as follows:

(1) if the violation involves 100 or fewer items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is \$1,000 or less and is a first offense, by imprisonment in a jail or house of correction for not more than two and one-half years;

(2) if the violation involves more than 100 but fewer than 1,000 items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is more than \$1,000 but less than \$10,000 or is a second offense, by imprisonment in the state prison for not more than five years;

Chap. 115

(3) if the violation involves 1,000 or more items bearing a counterfeit mark or the total retail value of all items bearing or of services identified by a counterfeit mark is \$10,000 or more or if the violation involves the manufacture or production of items bearing counterfeit marks or if the violation involves the manufacture or production of items that pose a threat to the public health or safety or it is a third or subsequent offense, by imprisonment in the state prison for not more than ten years.

(c) For the purposes of this section, the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing or of services identified by every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses.

(d) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess said items with the intent to sell or distribute. Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

(e) Any person convicted under this section shall, in addition to any penalty imposed pursuant to subsection (b), be punished by a fine in an amount not to exceed three times the retail value of the items bearing or of services identified by a counterfeit mark, unless extenuating circumstances are shown by the defendant.

(f) Any person convicted under this section shall, in addition to any penalty imposed pursuant to subsections (b) and (e), be punished by a fine in an amount equal to 75 per cent of the retail value of the items bearing or of services identified by a counterfeit mark, when the items involved pose a threat to public health or safety.

(g) Any items bearing a counterfeit mark and all personal property including, but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this section shall be seized by any law enforcement office; provided, however, that all such seized personal property shall be forfeited in accordance with the provisions of chapter 257. Upon the request of the intellectual property owner, all seized items bearing a counterfeit mark shall be released to the intellectual property owner for destruction or disposition; provided, however, that if the intellectual property owner does not request release of seized items bearing a counterfeit mark, such items shall be destroyed unless the intellectual property owner consents to another disposition.

Emergency Letter: May 15, 1998 @ 11:03 A.M.

Approved May 14, 1998.

Chapter 116. AN ACT AUTHORIZING THE TOWN OF WESTPORT TO REIMBURSE CERTAIN TAX PAYMENTS.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Westport is hereby authorized to reimburse Marie H. Hadfield the sum

Chap. 116

of \$3,398.05 and Clemotine Hadfield the sum of \$568.55 paid to said town as real estate taxes for fiscal years 1967 to 1991, inclusive.

SECTION 2. This act shall take effect upon its passage.

Approved May 14, 1998.

Chapter 117. AN ACT RELATIVE TO THE TRAFFIC COMMISSION OF THE CITY OF WALTHAM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 93 of the acts of 1965 is hereby amended by striking out section 1, as most recently amended by chapter 421 of the acts of 1986, and inserting in place thereof the following section:-

Section 1. There is hereby established in the city of Waltham, hereinafter called the city, a traffic commission, hereinafter called the commission, to consist of the chief of police, who shall be chairman, the wires inspector, the public works director, the chief of the fire department, the city clerk, the planning director and the treasurer/parking clerk.

SECTION 2. This act shall take effect upon its passage.

Approved May 14, 1998.

Chapter 118. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF ROBERT GODDARD DAY.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15ZZZ the following section:-

Section 15AAAA. The governor shall annually issue a proclamation setting apart March 16 as Robert Goddard Day, in recognition of his outstanding scientific contributions to the commonwealth and the nation, and recommending that said day be observed in an appropriate manner by the people.

Approved May 14, 1998.

Chapter 119. AN ACT ESTABLISHING A CERTAIN REVOLVING FUND IN THE TOWN OF SOUTHAMPTON.

Be it enacted, etc., as follows:

The town of Southampton is hereby authorized to establish and maintain a separate

Chap. 119

fund which shall be designated and known as the William E. Norris School Renovation Fund for the purpose of conducting major repairs and renovations to said school. Said town is hereby authorized, at a regular or special town meeting, to vote the transfer of the unexpended proceeds of the \$7,000,000 bond sale for the reconstruction of said school to said fund. Said town may appropriate or transfer monies to said fund by a majority vote at a regular or special town meeting in any year. The treasurer of said town shall be the custodian of said fund. Monies from said fund shall be expended, from time to time, without further appropriation by the school committee of said town with the approval of the board of selectmen of said town.

Approved May 14, 1998.

Chapter 120. AN ACT RELATIVE TO THE ELIGIBLE LIST FOR POLICE SERVICE IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, Stephen Charbonnier, brother of Mark Charbonnier, a Massachusetts state trooper who was killed while in the performance of his duty as a result of an assault on his person on September 2, 1994, so long as he passes the required written and physical examination for entrance to the police service shall have his name certified for original appointment to the police department of the city of Boston before all other persons on the eligible list for such appointment.

SECTION 2. This act shall take effect upon its passage.

Approved May 14, 1998.

Chapter 121. AN ACT PROVIDING FOR THE USE OF CERTAIN TYPES OF SECURITIES IN THE FINANCING OF THE CENTRAL ARTERY/ TED WILLIAMS TUNNEL PROJECT.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the use of certain types of securities in the financing of the Central Artery/Ted Williams Tunnel Project, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 11 of the acts of 1997 is hereby amended by striking out sections 9 and 10 and inserting in place thereof the following six sections:-

Chap. 121

Section 9. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by section 2A and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such times and at such rate or rates, including rates variable from time to time according to an index, banker's loan rate or otherwise, as the state treasurer shall fix or determine; provided, that the amount of such notes outstanding at any time shall not exceed, in the aggregate, the sum of \$1,500,000,000 with respect to item 6036-9716 of said section 2A; provided, however, that not more than \$1,000,000,000 in such notes may be issued unless additional spending is authorized pursuant to said item 6036-9716, whether by amendment of said item or otherwise; and provided further, that the amount of notes issued pursuant to this section and secured by the Federal Highway Grant Anticipation Note Trust Fund established by section 10 shall not exceed, in the aggregate, the sum of \$1,500,000,000. Such notes shall be issued and may be renewed one or more times for such maximum terms as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturity of the notes, whether original or renewal, shall be not later than June 30, 2015.

Except as otherwise provided in this paragraph, notes and the interest thereon issued under the authority of this section shall be general obligations of the commonwealth; provided, however, that the state treasurer may determine to issue any notes as special obligations pursuant to section 2 O of chapter 29 of the General Laws if the notes or renewals thereof are to be paid from the proceeds of special obligation bonds to be issued pursuant to said section 2 O of said chapter 29. In addition, at the request of the governor, the state treasurer shall instead issue such notes as special obligations secured by the Federal Highway Grant Anticipation Note Trust Fund in accordance with this act. Notwithstanding any provisions of this act to the contrary, in no event shall the principal amount of notes issued under the authority of this section as general obligations of the commonwealth exceed \$900,000,000; provided, however, that not more than \$450,000,000 in such notes shall be issued as general obligations of the commonwealth or as special obligations pursuant to said section 2 O of said chapter 29 prior to the enactment of federal legislation as a successor to or reauthorization of the Intermodal Surface Transportation Act of 1991, PL 102-240; and provided further, that any such notes issued as general obligations may be renewed one or more times as general obligations of the commonwealth as provided in the first paragraph.

All payments on account of principal of any notes issued as general obligations of the commonwealth or special obligations of the commonwealth pursuant to said section 2 O of said chapter 29 and allocable to the Highway Capital Projects Fund shall be repaid from said fund; provided, however, that to the extent federal financial participation allocable to such notes is received, the state comptroller shall perform adjusting accounting entries from the Federal Highway Construction Program Fund to the Highway Capital Projects Fund in the appropriate amounts.

Chap. 121

Section 10. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Federal Highway Grant Anticipation Note Trust Fund for the purpose of receiving federal highway construction trust funds, as hereinafter defined, and paying trust agreement obligations, as hereinafter defined, with respect to notes issued in accordance with section 9 and secured by said Federal Highway Grant Anticipation Note Trust Fund. Federal highway construction trust funds pledged by a trust agreement executed in accordance with section 10B, any other funds hereafter appropriated to said Federal Highway Grant Anticipation Note Trust Fund and investment earnings on any funds held or credited to the Federal Highway Grant Anticipation Note Trust Fund or on the proceeds of any notes issued pursuant to section 9 and secured by the Federal Highway Grant Anticipation Note Trust Fund shall be received and held by the state treasurer or his designee as the trustee of said fund and not on account of the commonwealth and, as set forth in section 10A, may be expended without further appropriation for payment of trust agreement obligations. Any federal highway construction trust funds received by the commonwealth prior to the initial date of issuance of any notes authorized by said section 9 and secured by said Federal Highway Grant Anticipation Note Trust Fund or returned to the commonwealth by the trustee at any time in accordance with the terms of said trust or agreement or upon termination of the trust established in this section shall be deposited into the operating fund or capital fund to which they would have been deposited in the absence of such trust agreement or trust. The trust established in accordance with this section and said Federal Highway Grant Anticipation Note Trust Fund shall terminate on the date of the final payment or defeasance in full by the commonwealth of all trust agreement obligations.

Section 10A. In order to increase the marketability of any notes issued by the commonwealth as special obligations of the commonwealth and secured by the Federal Highway Grant Anticipation Note Trust Fund and thereby ensure the issuance of such notes at the lowest possible cost to the commonwealth, all federal highway construction reimbursements and any other federal highway assistance received from time to time by the commonwealth with respect to projects financed by the issuance of such notes or with respect to any other federal highway project previously undertaken or to be undertaken at any time hereafter while any such notes are outstanding as part of the commonwealth's program of transportation development and improvements, as it may be provided for from time to time, hereinafter referred to as the federal highway construction program, or received from time to time by the commonwealth under any successor program established under federal law, hereinafter collectively referred to as the federal highway construction trust funds, any other funds hereafter appropriated to the Federal Highway Grant Anticipation Note Trust Fund and investment earnings on any funds held or credited to said Federal Highway Grant Anticipation Note Trust Fund or on the proceeds of any notes issued pursuant to section 9 and secured by said Federal Highway Grant Anticipation Note Trust Fund are hereby impressed with a trust for the benefit of the owners from time to time of such notes and such funds may be applied without appropriation solely for the purposes of paying the principal or purchase price of, redemption premium, if any, and interest on such

notes in the fiscal year of the commonwealth in which such funds are received or in any subsequent fiscal year of the commonwealth as such amounts come due or as such amounts may be paid or deemed paid prior to maturity in accordance with their terms and satisfying the terms and conditions of any trust agreement or credit enhancement agreement entered into with respect to such notes including, without limitation, the payment of any fees and expenses related to the notes, maintaining reserves, if any, under any trust agreement or credit enhancement agreement and paying reimbursement amounts in respect of any credit enhancement agreement. The principal or purchase price of, redemption premium, if any, and interest on such notes, the fees and expenses related to such notes, deposits to reserves, if any, under any trust agreement or credit enhancement agreement and any such reimbursement amounts shall hereinafter be referred to collectively as trust agreement obligations.

Section 10B. Notwithstanding any general or special law to the contrary in connection with the issuance of any notes authorized pursuant to section 9, the state treasurer may, at the request of the governor and with the concurrence of the secretary for administration and finance and the secretary of transportation and construction, enter into a trust agreement containing terms and conditions as set forth herein. Such trust agreement may pledge or assign all or any part of any funds credited to the Federal Highway Grant Anticipation Note Trust Fund and the funds specified in section 10C to secure the trust agreement obligations; provided, however, that such trust agreement shall include a provision substantially to the effect that on and after July 1, 2002, except to the extent necessary to pay trust agreement obligations due and payable in any fiscal year of the commonwealth or to maintain the debt service coverage percentage, as defined in said section 10C, or otherwise to maintain compliance with other terms and provisions of such trust agreement, not more than 50 per cent of federal highway construction trust funds apportioned by the United States Congress to the commonwealth in any federal fiscal year shall be applied in the fiscal year of the commonwealth ending on June 30 of such federal fiscal year or in the fiscal year of the commonwealth commencing on July 1 of such federal fiscal year to the payment of trust agreement obligations including, without limitation, the redemption, tender, payment or defeasance prior to maturity of the principal or purchase price of, redemption premium, if any, and interest on all or any portion of notes authorized pursuant to section 9 and secured by said Federal Highway Grant Anticipation Note Trust Fund.

The state treasurer may, with the concurrence of the secretary for administration and finance and the secretary of transportation and construction, purchase or enter into agreements for liquidity, additional security, insurance or other forms of credit enhancement which may be secured on a parity with the notes or on a subordinate basis. In the event that the state treasurer enters into a credit enhancement agreement, references to trust agreement in sections 9 to 10D, inclusive, shall be deemed to include any such credit enhancement agreement and such credit enhancement agreement shall include all terms and conditions required to be contained in such trust agreement. A pledge in a trust agreement or credit enhancement agreement shall be valid and binding from the time such pledge shall be made

without any physical delivery or further act and the lien of such pledge shall be valid and binding against all persons or entities of any kind having claims of any kind in tort, contract or otherwise, irrespective of whether such persons or entities have notice thereof, and shall secure all trust agreement obligations on a parity basis except as otherwise provided in the trust agreement or credit enhancement agreement. Notwithstanding any general or special law to the contrary, as long as a trust agreement or credit enhancement agreement authorized by section 10B shall be in effect and except as may be permitted by such trust agreement or credit enhancement agreement, no person or entity other than the commonwealth shall have or acquire any right, title or interest in federal highway construction trust funds or any of the portion of the tax per gallon imposed pursuant to chapter 64A of the General Laws. Any such pledge shall be perfected by the filing of the trust agreement or credit enhancement agreement in the records of the state treasurer and no filing shall be necessary under chapter 106 of the General Laws or any other general or special law. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the notes or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves, the issuance of additional or refunding notes, whether or not secured on a parity basis, the application of receipts, monies or funds pledged pursuant to such agreement, the defeasance or redemption of all or any portion of such notes prior to maturity and other matters deemed necessary or desirable by the state treasurer for the security of such notes and may also regulate the custody, investment and application of monies. The scheduled amortization of the principal of any notes issued pursuant to section 9 and secured by the Federal Highway Grant Anticipation Note Trust Fund shall be as determined by the state treasurer, with the concurrence of the secretary for administration and finance and the secretary of transportation and construction, based upon such factors as the state treasurer shall determine in his discretion including, without limitation the expected receipt of federal highway construction trust funds and may also defer the commencement of amortization of such principal as the state treasurer, with such concurrence, shall determine to be necessary, convenient or desirable. Said secretary for administration and finance and said secretary of transportation and construction may enter into such agreements or covenants with respect to any trust agreement or credit enhancement agreement authorized hereby or with respect to said Federal Highway Grant Anticipation Note Trust Fund as either of them may determine to be necessary, convenient or desirable to effectuate the purposes of sections 9 to 10D, inclusive.

In deciding whether to request that the state treasurer enter into a trust agreement with respect to any particular notes and, if applicable, to issue such notes as special obligations secured by said Federal Highway Grant Anticipation Note Trust Fund, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of such issuance on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds and notes of the commonwealth and any ratings expected to be assigned by a nationally recognized credit rating agency to the notes proposed

to be issued; and (iv) applicable provisions of a trust agreement or credit enhancement agreement to be entered into pursuant to this section.

Section 10C. Notwithstanding any general or special law to the contrary and in order further to enhance the marketability of notes issued pursuant to section 9 that are secured by the Federal Highway Grant Anticipation Note Trust Fund and to thereby ensure the issuance of such notes at the lowest possible cost to the commonwealth in the event appropriations from the Federal Highway Trust Fund for carrying out the provisions of Title 23 of the United States Code with respect to federal-aid highways or any successor federal program thereto for any federal fiscal year are less than 75 per cent of \$22,800,000,000, and the amount of federal highway construction trust funds expected to be available in the then current federal fiscal year to pay the trust agreement obligations due in the fiscal year of the commonwealth commencing on July 1 in such federal fiscal year is projected to be less than 120 per cent, of such trust agreement obligations, as certified by the state treasurer pursuant to this section, all monies received or to be received by the commonwealth in such fiscal year of the commonwealth from that portion of the tax per gallon imposed pursuant to chapter 64A of the General Laws and credited to the Highway Fund equal to ten cents per gallon, which amount shall not include any amount of such tax pledged to the payment of special obligation bonds of the commonwealth pursuant to section 2 O of chapter 29 of the General Laws, shall be deposited with the trustee under the trust agreement authorized pursuant to section 10B and shall be applied, subject to appropriation and as provided in said trust agreement, to pay the trust agreement obligations.

The trust agreement or credit enhancement agreement to be entered into pursuant to section 10B shall provide substantially to the effect that, not later than December 15 of each year, the state treasurer, after consultation with the secretary for administration and finance and the secretary of transportation and construction, shall certify to the governor, the speaker of the house of representatives and the president of the senate: (i) the aggregate amount appropriated by law with respect to the federal highway construction program, or a successor thereto, for the then current federal fiscal year; and (ii) the projected debt service coverage percentage for the following fiscal year of the commonwealth. If the amount of federal appropriations so certified is less than 75 per cent of \$22,800,000,000 and such projected debt service coverage percentage is less than 120 per cent, the governor shall include in the operating budget to be submitted to the general court in accordance with section 7H of chapter 29 of the General Laws a recommendation to appropriate an amount equal to the trust agreement obligations to be due in the following fiscal year of the commonwealth less the sum of (x), the amount of any available funds on deposit in the Federal Highway Grant Anticipation Note Trust Fund as of the date of the certification of the state treasurer, minus (y), the portion of such amount expected to be expended prior to the beginning of such following fiscal year on such trust agreement obligations, plus (z), any amount of federal highway construction trust funds expected to be received prior to the beginning of such following fiscal year. The trust agreement or credit enhancement agreement to be entered into pursuant to section 10B shall further provide substantially to the effect that at any time

prior to the enactment of the general appropriation act, the state treasurer shall, if necessary, after consultation with the secretary for administration and finance and the secretary of transportation and construction, amend such certification to reflect any changed circumstances known to the state treasurer with respect to the amount of federal highway construction trust funds expected to be available to pay trust agreement obligations in the applicable fiscal year. Such trust agreement or credit enhancement agreement shall further provide substantially to the effect that if the certifications specified above were given and indicated a need for an appropriation of funds by the general court, then, unless the state treasurer, after consultation with the secretary for administration and finance and the secretary of transportation and construction, certifies to the governor, the speaker of the house of representatives, the president of the senate and the trustee under the trust agreement not later than July 20 of each fiscal year that the amount of funds in the Federal Highway Grant Anticipation Note Trust Fund as of the end of the immediately preceding fiscal year of the commonwealth is sufficient to pay the trust agreement obligations due during the then current fiscal year, the receipts derived from that portion of the tax per gallon imposed pursuant to chapter 64A of the General Laws and credited to the Highway Fund equal to ten cents per gallon, which amount shall not include any amount of such tax pledged to the payment of special obligation bonds of the commonwealth pursuant to section 2 O of chapter 29 of the General Laws, shall be deposited thereafter with the trustee as specified in such trust agreement or credit enhancement agreement. Notwithstanding the foregoing provisions to the contrary, in the event an appropriation is enacted into law with respect to a fiscal year from any available funds of the commonwealth including, without limitation, receipts derived from the tax per gallon imposed pursuant to said chapter 64A, in an amount sufficient, together with other available funds in the Federal Highway Grant Anticipation Note Trust Fund as of the end of the immediately preceding fiscal year of the commonwealth, to pay the trust agreement obligations during such fiscal year, the state treasurer may, to the extent permitted under the trust agreement or credit enhancement agreement, deposit the amount of such appropriation with the trustee under the trust agreement or credit enhancement agreement and direct the trustee to transfer all or any portion of the receipts derived from the tax per gallon imposed pursuant to said chapter 64A to the state treasurer for credit to the Highway Fund to be applied as provided by law; provided, however, that no such transfer shall be made unless the amount then held by the trustee under the trust agreement or credit enhancement agreement is sufficient to pay all trust agreement obligations during such fiscal year of the commonwealth.

Section 10D. In order to further increase the marketability of notes issued by the commonwealth pursuant to section 9 which are secured by the Federal Highway Grant Anticipation Note Trust Fund and in consideration of the acceptance of payment for any such notes, the commonwealth covenants with the purchasers and all subsequent owners and transferees of any such notes that while any such note shall remain outstanding, and so long as any trust agreement obligation shall remain unpaid: (i) federal highway construction trust funds shall not be diverted from the purposes identified herein except as provided in the trust

agreement or credit enhancement agreement relating thereto nor shall the trusts with which they are hereby impressed be broken, and the pledge and dedication in trust of such funds shall continue unimpaired and unabrogated; (ii) in any fiscal year of the commonwealth with respect to which the certifications referenced in section 10C were given and indicated a need for an appropriation of funds by the general court, unless such an appropriation has been made which is sufficient to pay the trust agreement obligations due during such fiscal year, no receipts derived from the portion of the tax per gallon imposed pursuant to chapter 64A of the General Laws and credited to the Highway Fund equal to ten cents per gallon, other than any amount of such tax pledged to the payment of special obligation bonds of the commonwealth pursuant to section 2 O of chapter 29 of the General Laws, shall be applied to any other use; (iii) until the state treasurer, after consultation with the secretary for administration and finance and the secretary of transportation and construction, determines that available funds in the Federal Highway Grant Anticipation Note Trust Fund, as of the date of such determination, shall be sufficient to pay all trust agreement obligations with respect to such notes, the rate of the tax per gallon imposed pursuant to said chapter 64A shall not be reduced below the sum of ten cents per gallon plus any amount pledged to the payment of special obligation bonds of the commonwealth pursuant to said section 2 O of said chapter 29; and (iv) at least ten cents of said tax per gallon specified in said chapter 64A shall remain free and clear of any superior or equal pledge, lien, charge or encumbrance thereon or with respect thereto, other than the pledge securing the trust agreement obligations, and shall remain credited to the Highway Fund except as may be permitted by the trust agreement or credit enhancement agreement entered into pursuant to section 10B; provided, however, that any such funds shall be available for appropriation in any fiscal year for any other lawful purpose unless the state treasurer shall have provided the certifications specified in section 10C to the effect that such funds shall be necessary to pay any trust agreement obligations in such fiscal year.

SECTION 2. The second paragraph of section 54 of said chapter 11 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In furtherance of the foregoing purposes, the department, as appropriate, shall apply for and accept any federal funds available for projects authorized in sections 2 and 2A, and such federal funds when received shall be credited: (i) to the Federal Highway Grant Anticipation Note Trust Fund, if any notes authorized by section 9 are issued and secured by said fund; provided, however, that any funds not pledged to, or released from said fund in accordance with the provisions of the trust agreement or credit enhancement agreement referred to in section 10B shall be credited to the Federal Highway Construction Program Fund; and (ii) otherwise to the Federal Highway Construction Program Fund.

Approved May 18, 1998.

Chapter 122. AN ACT RELATIVE TO A CERTAIN CONSERVATION RESTRICTION IN THE TOWN OF SUDBURY.

Be it enacted, etc., as follows:

SECTION 1. The town of Sudbury, acting by its board of selectmen, is hereby authorized to release a certain parcel of land subject to the conservation restriction granted to said town of Sudbury by Arden B. MacNeill, on June 14, 1984, and recorded at Middlesex south registry of deeds, Book 17249, Page 611, from said restriction. The parcel of land to be released is shown as Parcel "A" on a plan entitled, "(EASEMENT PLAN) PLAN OF LAND IN SUDBURY, MASS., prepared for Rodger F. and Kathy K. Wilcox", dated September 19, 1995, to be recorded at the Middlesex south registry of deeds with the release of restriction authorized herewith.

In consideration of the release of said conservation restriction, Rodger F. and Kathy K. Wilcox, owners of said parcel of land, shall grant to said town of Sudbury a conservation restriction on the land shown as Parcel "B" on said plan.

SECTION 2. This act shall take effect upon its passage.

Approved May 20, 1998.

Chapter 123. AN ACT RELATIVE TO AUTHORIZATION BY CERTAIN RETIRED PUBLIC EMPLOYEES FOR DEDUCTIONS FROM PENSIONS FOR CERTAIN FINANCIAL INSTITUTIONS.

Be it enacted, etc., as follows:

Section 178B of chapter 149 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

The state treasurer shall deduct from each payment of pension to any retiree of the commonwealth such amount or amounts as such retiree in a written authorization to the state treasurer may specify for purchasing shares of, or making deposits in, or repaying any loan from any credit union operated by employees of the commonwealth. Any such authorization may be withdrawn by the retiree by giving at least 30 days notice in writing of such withdrawal to the state treasurer and by filing a copy with the treasurer of said credit union. The state treasurer making deductions under this section shall transmit the amounts so deducted to the treasurer of such credit union for the purposes specified by the retiree; provided, however, that in the case of such a union, he is satisfied by such evidence as he may require that the treasurer of the credit union has given bond as required by the law for the faithful performance of his duties. Moneys so deducted shall not be attached or taken upon execution or other process while in the custody of the state treasurer, except when so authorized by any other provision of law.

Approved May 20, 1998.

Chapter 124. AN ACT RELATIVE TO THE FORM OF GOVERNMENT OF THE TOWN OF SHEFFIELD.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 15 of the acts of 1989 is hereby amended by striking out clause (d).

SECTION 2. The second paragraph of said section 1 of said chapter 15 is hereby amended by adding the following sentence:- The term of office for the town clerk shall be up to three years.

SECTION 3. Section 3 of said chapter 15 is hereby amended by striking out, in lines 2 and 3, the words "(except the town clerk)".

SECTION 4. Section 7 of said chapter 15 is hereby amended by striking out, in lines 4 and 5, the words ", if a multiple member body, the number of members of any town body, in whole or in part," and inserting in place thereof the following words:- the number of members of any town multiple member body, in whole or part, and may.

Approved May 22, 1998.

Chapter 125. AN ACT ESTABLISHING A BOARD OF WATER AND SEWER COMMISSIONERS IN THE TOWN OF WEST STOCKBRIDGE.

Be it enacted, etc., as follows:

SECTION 1. Chapter 258 of the acts of 1993 is hereby repealed.

SECTION 2. There shall be established in the town of West Stockbridge a board of water and sewer commissioners to consist of five members to be appointed by the board of selectmen. Such members shall initially be appointed by the board of selectmen as follows: one member for one year; one member for two years; one member for three years; one member for four years and one member for five years. Thereafter, the board of selectmen shall appoint one member annually for five years. The board of selectmen shall appoint not less than three members who shall be users of the water or sewer system. Said board of water and sewer commissioners shall have all the powers and duties of both water and sewer commissioners as set forth in sections 65 and 69B of chapter 41 of the General Laws. The board of water and sewer commissioners may, subject to the approval of the board of selectmen, annually set the charges to be assessed upon water users and sewer users and shall determine the number and compensation of all employees necessary to operate said water and sewer systems.

SECTION 3. This act shall take effect upon its acceptance by the voters of the town of West Stockbridge at an annual or duly scheduled special town meeting.

Approved May 22, 1998.

**Chapter 126. AN ACT PROVIDING FOR THE APPOINTMENT OF A
TREASURER/COLLECTOR IN THE TOWN OF EGREMONT.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 1 of chapter 41 of the General Laws or any other general or special law to the contrary, the office of treasurer/collector is hereby established in the town of Egremont. Said treasurer/collector shall be appointed by the board of selectmen for a term not to exceed three years and shall have all the powers and duties vested in the office of treasurer and the office of collector. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section 1, the incumbents in the offices of treasurer and collector upon the effective date of this act shall continue to hold said offices and to perform the duties thereof until the expiration of their terms and the appointment and qualification of a treasurer/collector or a precedent vacating of office.

SECTION 3. This act shall take effect upon its passage.

Approved May 22, 1998.

**Chapter 127. AN ACT AUTHORIZING THE CITY OF EVERETT TO USE
CERTAIN PARK LAND FOR SCHOOL PURPOSES.**

Be it enacted, etc., as follows:

SECTION 1. The city of Everett is hereby authorized to use a certain parcel of playground land for the construction, maintenance and use of schools and educational facilities, facilities for athletic, sports and community programs and activities, and for general recreational uses. Said parcel is shown on the city of Everett assessor's records as Parcel A00004 00006A 02.

SECTION 2. The change in use of said portions of said park is contingent upon suitable replacement park lands being provided, as approved by the secretary of environmental affairs and the National Park Service.

SECTION 3. This act shall take effect upon its passage.

Approved May 22, 1998.

**Chapter 128. AN ACT AUTHORIZING THE ISSUANCE OF TWO ADDITIONAL
LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO
BEDRUNK ON THE PREMISES IN THE TOWN OF BELLINGHAM.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Bellingham is hereby authorized to is-

Chap. 128

sue two additional restaurant licenses for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Such licenses shall be subject to all the provisions of said chapter 138 except said section 17.

SECTION 2. This act shall take effect upon its passage.

Approved May 22, 1998.

Chapter 129. AN ACT PROVIDING CONSUMER PROTECTION RELATIVE TO THE SALE OF INSURANCE BY BANKS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for consumer protection relative to the sale of insurance by banks, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. This act shall be known and may be cited as the Consumer Protection Act relative to the sale of insurance by banks.

SECTION 2. Chapter 167F of the General Laws is hereby amended by inserting after section 2 the following section:-

Section 2A. (a) For purposes of this section, the word "company" shall mean an insurance company licensed pursuant to chapter 175 and the word "affiliate" shall have the same meaning as established in section 1 of chapter 167A.

(b) A bank shall have the power to sell, either directly or indirectly through an affiliate or a subsidiary corporation established for the purpose or a third party agreement, and acting either as an agent licensed pursuant to section 163 of chapter 175 or a broker licensed pursuant to section 166 of said chapter 175, such insurance products as a company, for which such bank, affiliate, subsidiary corporation or third party acts as agent or broker, is authorized to issue in the commonwealth. No bank exercising such power shall assume or guarantee the payment on any premiums on such products or guarantee the truth of any statement contained in the application therefor. Said sales shall be conducted in accordance with conditions and limitations that the commissioner shall promulgate by regulation and which shall reflect the substance of conditions established by the comptroller of the currency of the United States governing the sale of insurance products by a national bank as a licensed agent of an insurance company. Said conditions and limitations shall be in addition to and consistent with the provisions of said chapter 175 and regulations promulgated thereunder by the commissioner of insurance with respect to the licensing of insurance agents and brokers and the sale of insurance products. Said conditions and limitations shall include, but not be limited to, the following provisions:-

(1) No bank, except a bank licensed as an agent for the savings bank life insurance company of Massachusetts and only to the extent of the authority granted under such license, shall undertake to act directly or indirectly as an insurance agent or broker, in any manner permitted by this section, until the commissioner approves a general plan of operation submitted by such a bank that conforms with the regulations promulgated pursuant to this section. Said plan shall include a detailed description of the complaint resolution procedure, including bank personnel designated for its enforcement, required pursuant to subparagraph (9) of this section.

(2) Officers, tellers and other employees of a bank who are not licensed as insurance agents may refer a customer of said bank to a licensed insurance agent of the bank only when such customer initiates an inquiry relative to the availability or acquisition of insurance products. No such officer, teller or other employee shall be further or additionally compensated for making said referrals.

(3) The solicitation or sale of insurance products shall be permitted at the main office of a bank, or at any branch thereof established pursuant to chapter 167C, or at any other bank office, not including an electronic branch established pursuant to chapter 167B. Said solicitation or sale shall be conducted on the premises of a bank in a distinctly designated area which is separate and apart from any physical setting in which services for insured deposit account transactions or transactions involving applications for the extension of credit are conducted. The commissioner may waive the requirement for the physical separation of bank and insurance services only upon a demonstration by a bank that space considerations, such as the size or design of said bank premises, preclude such separation. The commissioner may allow for such use of a common area for both purposes if, subject to notice and hearing at the commissioner's discretion, said waiver application demonstrates physical constraints that are consistent with criteria the commissioner shall establish for such waivers. In any instance where such waiver is granted, a bank employee, licensed as an insurance agent, shall not, in any manner involving the application by a customer for an extension of credit by said bank, act as the representative of the bank both with respect to said application and with respect to the solicitation and sale of insurance products to said customer, whether or not such insurance is required for the extension of credit. It shall be the responsibility of a bank to institute procedures to eliminate customer misunderstanding or confusion as to the distinction between such insurance products and other bank functions, and to prevent any misrepresentation thereof. Notwithstanding the foregoing, any premises constructed, purchased, leased or acquired by a bank on and after the effective date of this section for the conduct of its authorized business, including the solicitation and sale of insurance, shall not be eligible for the waiver provided for herein, unless said acquisition results from a merger, consolidation or purchase of assets pursuant to chapters 168, 170 and 172.

(4)(i) A bank is hereby prohibited from tying the availability and extension of credit by a bank to the purchase of insurance products from said bank.

(ii) No solicitation for the sale of insurance in conjunction with any application for the extension of credit shall be permitted until said application has been approved, such approval and the disclosures required by this section have been provided to said applicant in writing, and the receipt of both said approval and disclosures has been acknowledged in writing by said applicant. The date, time and method of the communication of said approval and disclosures to the applicant, together with the applicant's acknowledgment of the receipt thereof, shall be made a permanent part of the bank record of such extension of credit. This paragraph shall not apply in situations where a bank contacts a customer in the course of direct or mass marketing of insurance products to a group of persons in a manner that bears no relation to any such person's loan application or credit decision.

(iii) In the instance of an application to a bank for an extension of credit to be secured by a mortgage on real estate and in which it is necessary for the applicant to obtain a policy insuring said premises against loss and designating such bank as loss payee, (i) said bank shall make the initial disclosure of the necessity of such insurance in its letter of commitment to the applicant approving the requested extension of credit; (ii) such bank shall not, in any manner, solicit the applicant to purchase the required insurance from the bank until said commitment has been accepted by the applicant; and (iii) such bank shall not reject any such policy, so long as it satisfies the required insurance, because the policy was issued by a company other than that for which the bank acts as agent in the sale of insurance products.

(5) Rebates shall be regulated pursuant to the provisions of section 185 of chapter 175.

(6) A bank, through its licensed insurance agents or brokers, shall disclose in writing to a potential insurance customer that: (i) the insurance products which are available are not deposits of the bank, are not protected by the federal deposit insurance corporation or any other type of deposit insurance, are not an obligation of or guaranteed by the bank, and may be subject to risk; (ii) any insurance required as a condition of the extension of credit by the bank need not be purchased from the bank but may, without affecting the approval of the application for an extension of credit, be purchased from an agent or insurance company of the customer's choice; and (iii) the customer may file any complaints with the office of consumer affairs and business regulations as hereinafter provided. The disclosures required by this section shall be provided in writing, and receipt thereof shall be acknowledged in writing by the customer.

(7) Bank customer information security and confidentiality shall be regulated pursuant to the provisions of chapter 175I of the General Laws and the provisions of the federal Fair Credit Reporting Act.

(8) No bank engaged in the direct sales of insurance products shall discriminate against an applicant or allow an affiliate, a subsidiary corporation established for the purpose or a third party acting on its behalf to discriminate against an applicant for any insurance products offered by it based upon the race, color, national origin or residence of the applicant, or on such other basis as the commissioner may determine. No bank offering insurance products at its main office or any branch thereof established pursuant to chapter 167C, shall refuse to offer the same at every such branch of the bank.

(9) A bank engaged in the direct sale of insurance products, or an affiliate, subsidiary corporation or third party acting on its behalf, and whether acting as insurance agent or broker, shall forthwith forward copies of all customer complaints relative to its insurance sales activities to the office of consumer affairs and business regulation established by section 1 of chapter 24A. The director of said office shall cause a record of all such complaints received to be maintained and shall, depending upon the nature of the complaint, refer any such complaint for resolution to the appropriate banking or insurance regulator in the division of banks and loan agencies or the division of insurance. The commissioner, in conjunction with the commissioner of insurance, shall establish a procedure for the prompt resolution of such consumer complaints. Regulations promulgated by the commissioner under this section shall include provisions for investigation and resolution by a bank of customer complaints and for the requirement to forward all complaints so received to the office of consumer affairs and business regulation.

(c) Any violations of the provisions contained in this section shall be subject to the applicable provisions of chapter 167, including, but not limited to, sections 2A to 2G, inclusive, and to applicable provisions of chapter 175 and chapter 176D, including, but not limited to, penalties, cease and desist orders, and suspension or loss of license.

(d) The provisions of this section shall not be applicable to the authority granted by paragraphs 16 and 17 of section 2 of chapter 167F and section 12G of chapter 255.

(e) The commissioner shall promulgate regulations necessary to carry out the provisions of this section.

(f) For purposes of this section, the term "bank" shall include small loan companies licensed pursuant to section 96 of chapter 140, and mortgage lenders and mortgage brokers licensed pursuant to chapter 255E; provided, however, that the provisions of clause (i) of paragraph (6) shall not apply to such small loan companies or to such mortgage lenders and mortgage brokers which do not accept deposits; and provided, further, that said licensees shall be eligible to apply to the commissioner of banks for a waiver, in accordance with the provisions of this section, for premises utilized for the conduct of authorized business in the commonwealth.

(g) Notwithstanding any other provision of law to the contrary, the commissioner, in his discretion, may furnish to the commissioner of insurance information, reports and statements relating to the sale of insurance by banks under his supervision which are licensed by the division of insurance pursuant to section 209 of chapter 175.

SECTION 3. Section 174E of chapter 175 of the General Laws is hereby repealed.

SECTION 4. Said chapter 175 is hereby further amended by adding the following three sections:-

Section 209. The commissioner may issue a license pursuant to section 163 and section 166 to a bank chartered by the commonwealth pursuant to chapter 168, 170 or 172, and to a bank chartered by the United States, to act as an insurance agent or broker pursuant to this chapter and in accordance with the provisions of section 2A of chapter 167F, for the solicitation and sale of such insurance products as the company, for which such bank acts as agent or broker, is authorized to issue in the commonwealth.

Section 210. The commissioner, in conjunction with the commissioner of banks, shall establish a procedure for the prompt resolution of consumer complaints relative to the activities of a bank as such licensed agent or broker.

Section 211. The commissioner may, in his discretion, furnish to the commissioner of banks and to federal bank regulatory agencies information relating to the insurance activities of any bank or federal bank, as such terms are defined in section 1 of chapter 167, which are licensed pursuant to section 209.

SECTION 5. The fourth paragraph of section 4 of chapter 178A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first and second sentences.

SECTION 6. Chapter 183 of the General Laws is hereby amended by adding the following section:-

Section 68. Any mortgagee doing business in the commonwealth and licensed as an insurance agent pursuant to section 163 of chapter 175, when making a mortgage loan secured by residential real estate located in the commonwealth, shall be subject, in addition to all applicable provisions of said chapter 175, to conditions and limitations established by the commissioner of banks pursuant to section 2A of chapter 167F; provided, however, that the provisions of clause (a) of subparagraph (6) of said section 2A shall not be applicable to any such mortgagee which does not accept deposits.

SECTION 7. In the event that any of the provisions of this act, as they relate to national banks, are preempted by the Comptroller of the Currency of the United States pursuant to section 114 of the federal Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994 (P.L. 103-328), or by a court of competent jurisdiction, the commissioner of banks, with respect to section 2A of chapter 167F of the General Laws, and the commissioner of insurance, with respect to sections 209 and 210 of chapter 175 of the General Laws, may waive, in writing, the applicability of such preempted provisions to said banks chartered by the commonwealth if it is determined such waiver is necessary in order to permit banks so chartered by the commonwealth to compete with national banks in the sale of insurance. Such waiver shall be filed with the state secretary and shall, unless otherwise provided by law, become effective on the sixtieth day following the date of said filing. A copy of any such waiver shall be filed simultaneously with the committee on banks and banking and the committee on insurance of the general court.

SECTION 8. The commissioner of banks and the commissioner of insurance shall jointly file a report with the committee on banks and banking and the committee on insurance of the general court delineating the number of applications for insurance agent or broker licenses filed by state and federally chartered banks directly or through affiliates, subsidiary corporations or pursuant to third party agreements, the number of applications approved, the names and addresses of the licensees, the business names and addresses of insurance agencies for which said banks act as such agents or brokers, and such other related information as said commissioners may deem necessary. Such report shall also include the number of applications filed for the waiver provided for in section 2, the names of the applicants, the addresses of the premises for which said waiver is sought, and the disposition

of such applications, including the reasons therefor. Said report shall be filed one year after the effective date of this act, and annually thereafter for a period of three years.

SECTION 9. Any license issued under the provisions of chapter 178A of the General Laws for a bank or its officers or employees to act as agent for the Savings Bank Life Insurance Company of Massachusetts shall continue in force until its stated expiration date after the effective date of this act, at which time such license may be renewed by said Savings Bank Life Insurance Company of Massachusetts and the issuance or renewal of said license shall not be subject to the provisions of section 2A of chapter 167F of the General Laws.

SECTION 10. Nothing in this act shall be construed so as to prohibit a bank from selling annuity products pursuant to state or federal law.

SECTION 11. The regulations required by section 2A of chapter 167F of the General Laws, inserted by section 2 of this act, and the procedures for promoting the prompt resolution of consumer complaints as provided for by said section 2A of said chapter 167F and section 210 of chapter 175 of the General Laws, shall be promulgated not later than September 1, 1998. The provisions of this act allowing the sale of insurance products by banks shall not be in effect until such regulations and procedures are so promulgated.

Approved May 22, 1998.

Chapter 130. AN ACT AUTHORIZING THE TOWN OF NORTH ATTLEBOROUGH TO MAKE CERTAIN CONVEYANCES OF FOREST LAND.

Be it enacted, etc., as follows:

SECTION 1. The town of North Attleborough, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of forest land to Boro Sand & Stone Corp. pursuant to the terms of an agreement by the town forest committee, Joseph P. Rezza and Boro Sand & Stone Corp. Said parcels shown as Lot 2 on a plan of land entitled "Plan of Land in North Attleboro, MA." dated June 24, 1996 drawn by Bay Colony Group, Inc. which is on file in the office of the town clerk.

SECTION 2. In consideration for the conveyance authorized in section 1, Joseph P. Rezza shall convey a certain parcel of land to the town of North Attleborough to be used for town forest purposes. Said parcel is shown as Lot 4 on the plan described in section 1.

SECTION 3. The town of North Attleborough, acting by and through its board of selectmen, is hereby authorized to convey a certain parcel of forest land to Joseph P. Rezza pursuant to an agreement by the town forest committee, Joseph P. Rezza and Boro Sand & Stone Corp. Said parcel is shown as Lot 3 on the plan described in section 1.

SECTION 4. In consideration for the conveyance authorized in section 1, Joseph P. Rezza shall convey a certain parcel of land to the town of North Attleborough to be used for town forest purposes. Said parcel is shown as Lot 3 on Land Court Plan 31210A.

Chap. 130

SECTION 5. The town of North Attleborough is hereby authorized to transfer care, custody and control of a certain parcel of forest land from the town forest committee to the board of public works. Said parcel contains approximately 35.375 acres, being part of Assessor's Plat 37, Lot 63, as shown on a plan entitled "Plan of Land in North Attleborough, MA" dated September 25, 1997, drawn by Bay Colony Group Inc., which is on file in the office of the town clerk.

Approved May 28, 1998.

Chapter 131. AN ACT RELATIVE TO THE CONVEYANCE OF A CERTAIN PARCEL OF LAND IN THE CITY OF LOWELL.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of a parcel of land to the city of Lowell, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 251 of the acts of 1994 is hereby repealed.

SECTION 2. The commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, in consultation with the department of environmental management, is hereby authorized, notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, to convey in fee simple to the city of Lowell certain park land together with the building and improvements thereon located in said city, for any and all activities which benefit the general public, subject to the requirements of sections 3 to 6, inclusive, and such additional terms as said commissioner may prescribe in consultation with said department of environmental management.

Said parcel is shown as Parcel 1 on a plan entitled "Plan of Property Owned by Manzi Sales & Service, Inc., The Commonwealth of Massachusetts, Broadway Street, Lowell, Massachusetts", dated November 27, 1979, by Cullinan Engineering Co., Inc., and recorded at Middlesex north registry of deeds at Plan Book 133, Page 86.

SECTION 3. Said conveyance shall be subject to such conditions and restrictions as may be deemed necessary or appropriate by the commissioner of the division of capital planning and operations, in consultation with the department of environmental management, and shall provide for compensation from the city of Lowell for the full and fair market value of the property as determined by an independent appraisal, for its use as described herein. Said city of Lowell may provide said compensation with the approval of said commissioner, in consultation with said department of environmental management, in the form of land or interest in lands of greater or equal value as determined by an independent appraisal, or a

combination of land and funds, provided that said funds, if any, shall be deposited in the Second Century Fund established under the provisions of section 2EE of chapter 29 of the General Laws. The inspector general shall review and approve said appraisal and said review shall include an examination of the methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file such report with said commissioner for submission to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration in accordance with section 7.

SECTION 4. The use of the parcel described in section 2, by the city, its successors and assigns, shall not interfere with the commonwealth's use and operation of the adjacent properties as a state park.

Any improvements made on the above described parcel shall be in conformance with the standards of the national park service and the Lowell historic board or their successors and assigns. In the event that exterior restorations have not been substantially completed within three years of the conveyance authorized herein, all interest conveyed in such parcel shall, upon notice by the commissioner of the division of capital planning and operations, revert to the commonwealth and shall be under the care and control of the department of environmental management.

SECTION 5. In the event that the parcel conveyed pursuant to this act is not used for, or ceases to be used solely, to benefit the public, all interest conveyed in such parcel shall, upon notice by the commissioner of the division of capital planning and operations, revert to the commonwealth and shall be under the care and control of the department of environmental management.

SECTION 6. The city of Lowell shall be responsible for any costs for appraisals, surveys and other expenses relating to the transfer of the property authorized in sections 2 and 3, or for any costs and expenses of any nature and kind for its development or for its maintenance.

SECTION 7. The commissioner of the division of capital planning and operations shall, within 45 days before the execution of any agreement authorized by this act, or any subsequent amendment thereof, submit such agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comments within 15 days of receipt of any such agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereof, the reports, and the comments of said inspector general, if any, to the house and senate committees on ways and means and the house and senate chairmen of the joint committee on state administration at least 15 days prior to execution.

Approved May 28, 1998.

Chapter 132. AN ACT RELATIVE TO THE CONVEYANCE OF CERTAIN CONSERVATION LANDS IN THE TOWN OF CARVER FOR AIRPORT PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The commissioner of the division of capital planning and operations, acting in consultation with the commissioner of the department of environmental management, is hereby authorized to convey by fee simple a certain parcel of land, located within the town of Carver, currently used by the department of environmental management for conservation, recreation, forest and open space purposes, as more particularly described below, to the Plymouth Airport Commission, a board duly established under section 51E of chapter 90 of the General Laws, for airport purposes, in accordance with provisions of Article 97 of the Constitution of the Commonwealth and sections 42E to 42J, inclusive, of chapter 7 of the General Laws subject to the further requirements of this act and subject to such additional terms and conditions consistent with this act as said commissioner may prescribe in consultation with the department of environmental management.

Said land is described in a deed recorded at the Plymouth county registry of deeds at Book 1010, Page 493.

SECTION 2. No deed conveyed by or on behalf of the commonwealth of the title to the property described in section 1 shall be valid unless such deed provides that such property shall be used solely for the purposes described in said section 1.

SECTION 3. The recipient of said title shall assume and be responsible for the cost of any appraisals, surveys, and other expenses deemed necessary by the commissioner of capital planning and operations for the granting of said title.

SECTION 4. The price paid by the recipient for said title shall be the full and fair market value for the property as determined by independent appraisal. The inspector general shall review and approve said appraisal and said review shall include a review of the methodology utilized for said appraisal. Said inspector general shall prepare a report of his review and file said report with the commissioner of capital planning and operations for submission to the house and senate committees on ways and means, and chairmen of the joint committee on state administration in accordance with section 5.

SECTION 5. The commissioner of the division of capital planning and operations shall 30 days prior to the execution of any agreement or deed authorized by this act, or any subsequent amendment thereof, submit said agreement or deed, or amendment, and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt. Said commissioner shall submit the agreement, deed and any subsequent amendments thereof, the reports and comments of said inspector general, if any, to the house and senate committees on ways and means and the chairmen of the joint committee on state administration at least 15 days prior to execution of same.

SECTION 6. The price paid for the title and property authorized by this act pursuant

Chap. 132

to section 4 shall be deposited to the credit of the department of environmental management Second Century Fund as established by section 160 of chapter 151 of the acts of 1996.

Approved May 28, 1998.

**Chapter 133. AN ACT AUTHORIZING THE TOWN OF ARLINGTON TO
ESTABLISH A SPECIAL FUND FOR THE PAYMENT OF COSTS
RELATIVE TO SCHOOL RENOVATION PROJECTS.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Arlington shall establish a special fund in the town treasury into which shall be deposited all income derived from investment of the proceeds of bonds and notes issued for the renovation, reconstruction, construction and original equipping of said town's elementary schools or any of them, and all income derived from investment of the special fund, for such school building projects as were originally outlined in said town's school facilities master plan study dated March 23, 1993 and received by said town under Article 29 of the 1993 special town meeting. The town treasurer shall be the custodian of said monies and shall make an accounting of the funds to each annual town meeting. All amounts in said special fund shall be applied solely to the payment of costs for a school building project or projects for which bonds or notes have been authorized or both authorized and issued relating to the costs of the renovation, reconstruction, construction and original equipping of said town's elementary schools in such amount as any special or annual town meeting may determine in any given year.

SECTION 2. This act shall take effect upon its passage.

Approved May 28, 1998.

**Chapter 134. AN ACT RELATIVE TO THE MEMBERSHIP OF THE
CONSERVATION COMMISSION OF THE TOWN OF FALMOUTH.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 8C of chapter 40 of the General Laws, the board of selectmen of the town of Falmouth may appoint not more than three associate members of the conservation commission of said town for terms not to exceed two years.

The chairman of said commission may designate any such associate member to sit on the commission in the absence of a quorum for any reason including a conflict of interest, or the existence of a vacancy until said vacancy is filled in the manner provided in said section 8C of said chapter 40.

Approved May 28, 1998.

Chapter 135. AN ACT DESIGNATING A CERTAIN BRIDGE LOCATED IN THE TOWN OF NATICK AS THE VETERANS' MEMORIAL BRIDGE.

Be it enacted, etc., as follows:

SECTION 1. The bridge located on state highway Route 27 spanning state highway Route 9 in the town of Natick shall be designated and known as the Veterans' Memorial Bridge, in honor of all veterans who have unselfishly served their country. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

SECTION 2. This act shall take effect upon its passage.

Approved May 28, 1998.

Chapter 136. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE TOWN OF AMESBURY AS THE BAILEY BRIDGE.

Be it enacted, etc., as follows:

SECTION 1. The bridge on Main street spanning the Powwow river in the city known as the town of Amesbury shall be known and designated as the Bailey Bridge, in memory of Samuel Bailey, David C. Bailey and Edwin M. Bailey for their lifetimes of community service. The department of highways shall erect and maintain a suitable marker on said bridge bearing said designation in compliance with the standards of said department.

SECTION 2. This act shall take effect upon its passage.

Approved May 28, 1998.

Chapter 137. AN ACT RELATIVE TO CARDIOPULMONARY RESUSCITATION AND AUTOMATIC EXTERNAL DEFIBRILLATION.

Be it enacted, etc., as follows:

SECTION 1. Section 14 of chapter 111C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "aid", in line 3, the following words:- , including, but not limited to, the use of any semi-automatic or automatic external defibrillator.

SECTION 2. Chapter 112 of the General Laws is hereby amended by striking out section 12V, as so appearing, and inserting in place thereof the following section:-

Section 12V. Any person who is trained according to the standards and guidelines of the American Heart Association or the American National Red Cross in cardiopulmonary resuscitation or the use of semi-automatic or automatic external defibrillators or any person who has successfully met the training requirements of a course in basic cardiac life support,

Chap. 137

conducted according to the standards established by the American Heart Association, who in good faith and without compensation renders emergency cardiopulmonary resuscitation or defibrillation in accordance with his training, other than in the course of his regular professional or business activity, to any person who apparently requires cardiopulmonary resuscitation or defibrillation, shall not be liable for acts or omissions, other than gross negligence or willful or wanton misconduct, resulting from the rendering of such emergency cardiopulmonary resuscitation or defibrillation.

Approved May 28, 1998.

Chapter 138. AN ACT ESTABLISHING A COMMISSION ON THE STATUS OF WOMEN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 3 of the General Laws is hereby amended by adding the following section:-

Section 66. (1) There is established a permanent commission on the status of women consisting of 19 persons as follows: five persons appointed by the governor; four persons appointed by the speaker of the house of representatives; four persons appointed by the president of the senate; and six persons appointed by the caucus of women legislators or its successor organization. Members of the commission shall be drawn from diverse racial, ethnic, religious, age, sexual orientation and socio-economic backgrounds from throughout the commonwealth and shall have had experience working toward the improvement of the status of women in society. Members shall be subject to the provisions of chapter 268A as they apply to special state employees.

(2) (a) Members shall serve terms of three years and until their successors are appointed.

(b) Vacancies in the membership of the commission shall be filled by the original appointing authority for the balance of the unexpired term.

(c) Appointments shall be made in consultation with women's organizations. Nominations shall be solicited between August 1 and September 16 of each year through an open application process using a uniform application that is widely distributed throughout the state.

(d) The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it deems necessary.

(e) The members of the commission shall receive no compensation for their services, but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties.

(3) The commission shall conduct an ongoing study of all matters concerning women

and shall be guided by the tenets of the Platform for Action of the United Nations Fourth World Conference on Women held in Beijing, China in September, 1995. In furtherance of that responsibility, the commission shall: (a) study, review and report on the status of women in the commonwealth; (b) inform leaders of business, education, health care, state and local governments and the communications media of issues pertaining to women; (c) serve as a liaison between government and private interest groups concerned with issues affecting women; (d) serve as a clearinghouse for information on issues pertaining to women; (e) identify and recommend qualified women for appointive positions at all levels of government, including boards and commissions, as the commission deems necessary and appropriate; (f) assess programs and practices in all state agencies as they affect women, as the commission deems necessary and appropriate; (g) advise executive and legislative bodies on the effect on women of proposed legislation, as the commission deems necessary and appropriate; and (h) promote and facilitate collaboration among local women's commissions and among women's organizations in the state, as the commission deems necessary and appropriate. The commission shall annually, on or before June 2, report the results of its findings and activities of the preceding year and its recommendations to the governor and to the clerks of the senate and house of representatives.

(4) The powers of the commission shall include but not be limited to the following: (a) to use such voluntary and uncompensated services of private individuals, agencies and organizations as may from time to time be offered and needed; (b) to recommend policies and make recommendations to agencies and officers of the state and local subdivisions of government to effectuate the purposes of subsection (3); (c) to select an executive director and to acquire adequate staff to perform its duties, subject to appropriation; (d) to establish and maintain such offices as it may deem necessary, subject to appropriation; (e) to enact bylaws for its own governance; and (f) to hold regular, public meetings and to hold fact-finding hearings and other public forums as it may deem necessary.

(5) The commission shall meet once every month, except for the months of July and August at members' discretion. The (i) governor, (ii) speaker of the house of representatives, (iii) president of the senate and (iv) designated members of the caucus of women legislators shall be invited to attend the monthly meetings on a rotating basis.

(6) (a) The commission may request from all state agencies such information and assistance as the commission may require.

(b) The commission may accept and solicit funds, including any gifts, donations, grants, or bequests, or any federal funds for any of the purposes of this chapter. Such funds shall be deposited in a separate account with the state treasurer, be received by said treasurer on behalf of the commonwealth, and be expended by the commission in accordance with law.

SECTION 2. Notwithstanding the provisions of section 66 of chapter 3 of the General Laws, the initial members of the commission on the status of women shall be appointed for the following terms:-

Chap. 138

(a) The governor shall appoint, on or before November 16, 1998, two members for a term of one year, two members for a term of two years, and one member for a term of three years.

(b) The speaker of the house of representatives shall appoint, on or before November 16, 1998, two members for a term of one year, one member for a term of two years, and one member for a term of three years.

(c) The president of the senate shall appoint, on or before November 16, 1998, two members for a term of one year, one member for a term of two years, and one member for a term of three years.

(d) The caucus of women legislators or its successor organization shall appoint, on or before November 16, 1998, one member for a term of one year, two members for a term of two years, and three members for a term of three years.

Approved May 29, 1998.

Chapter 139. AN ACT RELATIVE TO CONSTRUCTION OF CERTAIN DWELLINGS IN THE TOWN OF WILMINGTON.

Be it enacted, etc., as follows:

Notwithstanding any general or special law to the contrary, no dwelling shall be constructed on any lot in the town of Wilmington containing less than 10,000 square feet of land or having less than 100 feet of frontage; provided, that the planning board may authorize by special permit construction of one single family dwelling on such a lot, which does not conform with the area or frontage requirements of the zoning but which contains at least 5,000 square feet and has at least 50 feet of frontage, provided that such lot met any applicable requirements for area and frontage at the time such lot was recorded or endorsed and that such lot has not been held in common ownership with any adjacent land since the date of nonconformance with area or frontage requirements, upon a finding, after consideration of all pertinent factors, including the provisions for the disposal of waste, that construction and maintenance of a single family dwelling on such lot will be consistent with public health, safety, and welfare and without any substantial detriment to the public good.

Approved May 29, 1998.

Chapter 140. AN ACT PROVIDING FOR CERTAIN INSURANCE BENEFITS FOR CANCER PATIENTS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after section 17D, as appearing in the 1996 Official Edition, the following section:-

Section 17E. (a) For the purposes of this section, the following words shall have the following meanings:

"Prosthesis", an artificial appliance used to replace a lost natural structure; provided, however, that prosthesis shall include, but not be limited to, artificial arms, legs, breasts, scalp hair or glass eyes.

"Scalp hair prosthesis", an artificial substitute for scalp hair.

(b) The commission shall provide to any active or retired employee of the commonwealth who is insured under the group insurance commission, if such group coverage provides for any other prosthesis, coverage for expenses for scalp hair prostheses worn for hair loss suffered as a result of the treatment of any form of cancer or leukemia; provided, however, that such coverage shall be subject to a written statement by the treating physician that the scalp hair prosthesis is medically necessary; and provided, further, that such coverage shall be subject to the same limitations and guidelines as other prostheses. Scalp hair prosthesis coverage pursuant to this section shall not exceed an amount of \$350 per year.

SECTION 2. Chapter 175 of the General Laws is hereby amended by inserting after section 47S, as so appearing, the following section:-

Section 47T. (a) For the purposes of this section, the following words shall have the following meanings:

"Prosthesis", an artificial appliance used to replace a lost natural structure; provided, however, that prosthesis shall include, but not be limited to, artificial arms, legs, breasts, scalp hair or glass eyes.

"Scalp hair prosthesis", an artificial substitute for scalp hair.

(b) Any blanket or general policy of insurance described in subdivision (A), (C) or (D) of section 110 which provides hospital expense and surgical expense insurance, which is delivered or issued for delivery or subsequently renewed by agreement between the insurer and the policyholder, within or without the commonwealth, or any policy of accident and sickness insurance as described in section 108 which provides hospital expense and surgical expense insurance, which is delivered or issued for delivery or subsequently renewed by agreement between the insurer and the policyholder in the commonwealth, or any employees' health and welfare fund which provides hospital expense and surgical expense benefits and which is issued or renewed to any person or group of persons in the commonwealth, if such policy or fund provides coverage for any other prosthesis, shall provide coverage for expenses for scalp hair prostheses worn for hair loss suffered as a result of the treatment of any form of cancer or leukemia; provided, however, that such coverage shall be subject to a written statement by the treating physician that the scalp hair prosthesis is medically necessary; and provided, further, that such coverage shall be subject to the same limitations and guidelines as other prostheses. Scalp hair prosthesis coverage pursuant to this section shall not exceed an amount of \$350 per year.

SECTION 3. Chapter 176A of the General Laws is hereby amended by inserting after section 8S, as so appearing, the following section:-

Chap. 140

Section 8T. (a) For the purpose of this section, the following words shall have the following meanings:

"Prosthesis", an artificial appliance used to replace a lost natural structure; provided, however, that prosthesis shall include, but not be limited to, artificial arms, legs, breasts, scalp hair or glass eyes.

"Scalp hair prosthesis", an artificial substitute for scalp hair.

(b) Any contracts, except contracts providing supplemental coverage to medicare or other governmental programs, between a subscriber and the corporation under an individual or group hospital service plan which is delivered, issued or renewed in the commonwealth and which provides coverage for any other prosthesis, shall provide, as a benefit to all individual subscribers or members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for expenses for scalp hair prostheses worn for hair loss suffered as a result of the treatment of any form of cancer or leukemia; provided, however, that such coverage shall be subject to a written statement by the treating physician that the scalp hair prosthesis is medically necessary; and provided, further, that such coverage shall be subject to the same limitations and guidelines as other prostheses. Scalp hair prosthesis coverage pursuant to this section shall not exceed an amount of \$350 per year.

SECTION 4. Chapter 176B of the General Laws is hereby amended by inserting after section 4Q, as so appearing, the following section:-

Section 4R. (a) For the purposes of this section, the following words shall have the following meanings:

"Prosthesis", an artificial appliance used to replace a lost natural structure; provided, however, that prosthesis shall include, but not be limited to, artificial arms, legs, breasts, scalp hair or glass eyes.

"Scalp hair prosthesis", an artificial substitute for scalp hair.

(b) Any subscription certificate under an individual or group medical service agreement, except certificates which provide supplemental coverage to medicare or other governmental programs, that shall be delivered, issued or renewed within the commonwealth, and which provides coverage for any other prosthesis, shall provide, as benefits to all individual subscribers or members within the commonwealth and to all group members having a principal place of employment within the commonwealth, coverage for expenses for scalp hair prostheses worn for hair loss suffered as a result of the treatment of any form of cancer or leukemia; provided, however, that such coverage shall be subject to a written statement by the treating physician that the scalp hair prosthesis is medically necessary; and provided, further, that such coverage shall be subject to the same limitations and guidelines as other prostheses. Scalp hair prosthesis coverage pursuant to this section shall not exceed an amount of \$350 per year.

SECTION 5. Chapter 176G of the General Laws is hereby amended by inserting after section 4I, as so appearing, the following section:-

Section 4J. (a) For the purposes of this section, the following words shall have the following meanings:

Chap. 140

"Prosthesis", an artificial appliance used to replace a lost natural structure; provided, however, that prosthesis shall include, but not be limited to, artificial arms, legs, breasts, scalp hair or glass eyes.

"Scalp hair prosthesis", an artificial substitute for scalp hair.

(b) A group health maintenance contract which provides coverage for any other prosthesis, shall provide coverage for expenses for scalp hair prostheses worn for hair loss suffered as a result of the treatment of any form of cancer or leukemia; provided, however, that such coverage shall be subject to a written statement by the treating physician that the scalp hair prosthesis is medically necessary; and provided, further, that such coverage shall be subject to the same limitations and guidelines as other prostheses. Scalp hair prosthesis coverage pursuant to this section shall not exceed an amount of \$350 per year.

Approved May 29, 1998.

Chapter 141. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ENTER INTO A LEASE OF CERTAIN PROPERTY WITH THE TOWN OF CHELMSFORD.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the division of capital planning and operations to enter into a lease of certain property with the town of Chelmsford, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws, the commissioner of the division of capital planning and operations, in consultation with the University of Massachusetts at Lowell, is hereby authorized and directed to lease to the town of Chelmsford, and said town is hereby authorized to lease from the commonwealth, for consideration as described in section 3, for a term of 20 years, a certain parcel of land currently used for recreational purposes together with the buildings thereon known as the Tully Forum, situated in the towns of Billerica and Chelmsford. Said parcel of land is shown as lots 1 and 2 on a plan of land entitled, "Plan of Land in Billerica and Chelmsford", prepared by Norgara Investment Corp., September 1980, Fleming, Bienvenu & Associates, Inc. Engineers and Surveyors. Said commissioner shall determine the boundaries of said parcel. Said lease shall be subject to all easements and restrictions of record. Said lease shall further include the public address system and hanging scoreboard located in Tully Forum and one Zamboni ice machine, so-called.

SECTION 2. The parcel of land, buildings, personal property or other improvements described in section 1 shall be used by the town of Chelmsford for general recreational pur-

poses only, and in the event said parcel of land, buildings, personal property or other improvements ceases to be used at any time for said purposes or if such land, buildings, personal property or improvements are used for any other purposes during the term of the lease, said lease shall be terminated by notice to be given by the commissioner of the division of capital planning and operations and said parcel shall revert thereupon to the care and control of said division of capital planning and operations.

SECTION 3. The consideration for the lease by the commonwealth to the town of Chelmsford, authorized in section 1, shall include the rights and duties set forth in sections 4, 5 and 10 and any improvements, alterations and renovations made to the property, described in section 1, by said town; provided, however, that the town is authorized to make improvements, alterations and renovations to the property, notwithstanding the provisions of chapter 7 of the General Laws but subject to the prior written approval of the commissioner of capital planning and operations, in consultation with the University of Massachusetts at Lowell; and provided, further, that copies of any and all plans related thereto, together with all such written approvals therefor by said commissioner shall be sent to the clerk of the house of representatives who shall forward the same to the committee on state administration.

SECTION 4. The University of Massachusetts at Lowell shall have the right, at no cost and for as long as the town of Chelmsford leases or owns the Tully Forum on said land, to schedule university hockey practices in said Forum; provided, however, that such practices shall not occur more than five days per month, on average, for those months during which the university hockey team is in season.

SECTION 5. Any nonprofit youth association which used the Tully Forum ice rink from September 1, 1997 to August 31, 1998, inclusive, shall have the right for as long as the town of Chelmsford leases the Tully Forum, to rent the use of said rink from the town, and to keep the ice hours they rent currently at equal to or better quality ice times. Said town of Chelmsford shall have the right of first refusal for any remaining additional ice times, followed by any nonprofit youth association which draws primarily from residents of said town of Chelmsford, and followed by any nonprofit youth associations using said Tully Forum ice rink between September 1, 1997 and August 31, 1998. Said rental obligation to said nonprofit youth associations shall survive a sale of said Tully Forum pursuant to section 9, and shall apply to any successor owner or owners of said premises upon conveyance during or at the end of the lease authorized by this act. Such rental by said associations shall take precedence over all other rentals or uses of said Tully Forum ice rink, except for the use by the University of Massachusetts at Lowell as set forth in section 4.

SECTION 6. The town of Chelmsford is hereby authorized to issue licenses, permits and similar instruments authorized by law for single events, single or multiple day activities of not more than 30 days, periodic gatherings and meetings and show or entertainment events for the land and buildings as described in section 1, or any portion thereof, which make up the Tully Forum; provided, however, that every six months said town of Chelmsford shall provide to the commissioner of capital planning and operations a copy of

said licenses, permits and instruments which it has issued. Said town of Chelmsford is hereby further authorized to enter into a sublease or subleases of a portion or portions of the Tully Forum for the purpose of concession stands or pro shops; provided, however, that such a sublease shall be subject to the prior written approval of said commissioner.

SECTION 7. The commissioner of the division of capital planning and operations shall, 45 days prior to the execution of any agreement authorized by this act or any subsequent amendment thereto, submit such agreement or amendment and a report thereon to the inspector general for his review and comment. Said inspector general shall issue his review and comment within 15 days of receipt of any agreement or amendment. Said commissioner shall submit the agreement and any subsequent amendments thereto, the reports, and the comments of said inspector general, if any, to the joint committee on state administration at least 15 days prior to the execution thereof.

SECTION 8. The town of Chelmsford shall be responsible for all costs and expenses of appraisals and other expenses relating to the lease and conveyance of the property pursuant to section 9, if applicable, and for all costs, expenses, and liabilities of every nature and kind for the use, occupancy, maintenance, repair, replacement and operation of the property subject to the lease. The lessee shall maintain insurance coverage on said property, and the amount and nature of said insurance shall be determined by the commissioner of the division of capital planning and operations. The commonwealth shall not be liable for any injury or damage sustained on the leased property which shall be the total and exclusive responsibility of the lessee.

SECTION 9. The lease authorized by this act, notwithstanding chapters 7 and 30B of the General Laws, but subject to the provisions of this act, shall contain an option for the town of Chelmsford to purchase the property described in section 1 which shall be exercisable during or at the end of the lease term, and the commissioner of the division of capital planning and operations is hereby authorized to grant and said town of Chelmsford is hereby authorized to exercise said option. The purchase price for said property shall be the full and fair market value of the property at the time of the exercise of the option as determined by an independent appraisal for its use as described herein; provided, however, that the cost of all improvements, alterations and renovations made by said town of Chelmsford to the property shall be deducted from the aforesaid price, as determined by mutual agreement of said commissioner and said town of Chelmsford.

The inspector general shall review and approve said appraisal, including an examination of the methodology used for said appraisal and shall prepare and file a report of his review with said commissioner and with the clerk of the house of representatives who shall forward the same to the joint committee on state administration in accordance with the provisions of section 7.

SECTION 10. Notwithstanding the provisions of any general or special law to the contrary, if the town of Chelmsford enters into the lease authorized by the provisions of section 1, said town shall establish in the town treasury a revolving fund which shall be kept

Chap. 141

separate and apart from all other monies by the town treasurer and in which shall be deposited 35 per cent of the monies received from the rental, sublease, or any other use of the Tully Forum. Said monies shall be used for the maintenance of said Tully Forum.

Approved May 29, 1998.

Chapter 142. AN ACT RELATIVE TO PROCEEDINGS FOR THE FORECLOSURE OF MORTGAGES UNDER THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.

Be it enacted, etc., as follows:

The penultimate paragraph of section 1 of chapter 57 of the acts of 1943, as amended by section 1 of chapter 496 of the acts of 1990, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- No proceedings shall be brought under this section in any case in which the record ownership of the equity of redemption in the mortgaged property is held by one or more of the following types of entities, whether domestic or foreign: a corporation; a limited liability company; a limited partnership, including one which has registered as a limited liability partnership; a trust operating under a written instrument or declaration of trust, the beneficial interest under which is divided into transferable certificates of participation or shares; or a general partnership or joint venture, including a general partnership or joint venture which has registered as a limited liability partnership, of which all the general partners who appear of record so appear to be one or more of the foregoing types of entities.

Approved May 29, 1998.

Chapter 143. AN ACT AUTHORIZING CERTAIN CONVEYANCES IN THE TOWN OF WILBRAHAM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith certain conveyances, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 175 of the acts of 1997 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:- Notwithstanding the provisions of sections 40F to 40I, inclusive, of chapter 7 of the General Laws, the division of capital planning and operations shall convey by deed, for consideration

in accordance with the procedure established in section 6, land used for open space with the buildings thereon located in the town of Wilbraham under the control of the division of fisheries and wildlife and commonly known as the Wilbraham Game Farm, hereinafter referred to as the property, for use as a public park for recreation, conservation, education, agriculture, including agricultural fairs, and wildlife management purposes, under such use restrictions and environmental protection requirements provided in this act.

SECTION 2. Paragraph (3) of section 6 of said chapter 175 is hereby amended by striking out clause (iv) and inserting in place thereof the following clause:- (iv) the property shall be managed and administered to the extent applicable in accordance with the use guidelines adopted by said town at its annual town meeting of May 1, 1995, including the provisions relating to the annual peach festival, and such use and environmental restrictions as are set forth in sections 1 to 4, inclusive.

SECTION 3. Said chapter 175 is hereby further amended by striking out section 7 and inserting in place thereof the following section:-

Section 7. Upon completion of the conveyance, the owner shall establish a public park in accordance with the vote of the town of Wilbraham annual town meeting of May 1, 1995, to the extent applicable, to be managed and administered in accordance with the use guidelines adopted by said annual town meeting of May 1, 1995, to the extent applicable, and such use and environmental restrictions as are set forth in sections 1 to 4, inclusive; provided, however, that said use guidelines may be amended in substance not inconsistent with the provisions of this act and in the manner applicable to the amendment of zoning by-laws; provided, further, that any revenues accruing to the owner derived from any use or activity on the property may be used solely to further the purposes and uses of the property set forth in section 1 and such revenues shall not inure to the private benefit of any other person or organization; provided, further, that should the property be used or managed by the owner not in accordance with such uses and environmental restrictions as are set forth in said sections 1 to 4, inclusive, and the owner shall not have cured any noncompliant uses within 30 days of receipt of written notice by ten taxable inhabitants of said town or should the owner determine that it is no longer capable or willing to perform its obligations under this act, title to said property shall pass to said town to be used for open space in accordance with such uses and environmental restrictions as are set forth in said sections 1 to 4, inclusive, but said town shall not be liable for any acts, omissions or occurrences arising prior to passage of the title; and provided, further, that should the property, following the transfer of title to said town, be used or managed by said town not in accordance with such uses and environmental restrictions as are set forth in said sections 1 to 4, inclusive, and said town not having cured any noncompliant uses within 30 days of receipt of written notice by ten taxable inhabitants of said town, title to said property shall revert to the care and control of the division of capital planning and operations and any further disposition of said property shall be subject to the provisions of sections 40E to 40J, inclusive, of chapter 7 of the General Laws. The superior court shall have jurisdiction over any claims that the property is not used or managed in accordance with such uses and environmental restrictions as are

Chap. 143

set forth in said sections 1 to 4, inclusive. Notwithstanding the provisions of any general or special law to the contrary, the owner shall be deemed not to be a state or municipal agency by virtue of the duties, restrictions or activities imposed or authorized by this section.

SECTION 4. All actions taken with respect to chapter 175 of the acts of 1997 are hereby ratified, validated and confirmed.

Approved May 29, 1998.

Chapter 144. AN ACT VALIDATING THE ACTION TAKEN AT AN ANNUAL TOWN MEETING OF THE TOWN OF BROOKLINE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law or by-law to the contrary, all acts and proceedings taken by the town of Brookline at its annual town meeting held on May 27, 1997 and May 28, 1997, and all actions taken pursuant thereto are hereby ratified, validated and confirmed, to the same extent as if the publication of the warrant for such meeting had been in full compliance with the law, including any applicable by-law.

SECTION 2. This act shall take effect upon its passage.

Approved May 29, 1998.

Chapter 145. AN ACT RELATIVE TO THE STATE BALLOT LAW COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 2 of chapter 55B of the General Laws any other general or special law to the contrary, the chairman of the state ballot law commission may hold other appointive public office.

SECTION 2. This act shall cease to be effective on October 30, 1998.

Emergency Letter: June 4, 1998 @ 1:20 A.M.

Approved June 4, 1998.

Chapter 146. AN ACT RELATIVE TO THE TERMS OF CERTAIN NOTES TO BE ISSUED BY THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith the issuance of certain notes to carry out the purposes of certain acts passed by the general court, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Chap. 146

Be it enacted, etc., as follows:

Chapter 27 of the acts of 1997 is hereby amended by striking out section 5 and inserting in place thereof the following section:-

Section 5. Notwithstanding the provisions of any general or special law to the contrary, the notes which the state treasurer is authorized to issue under section 9 of chapter 11 of the acts of 1997 shall be issued and may be renewed one or more times for a term not to exceed 18 years and the final maturities of such notes, whether original or renewal, shall be not later than June 30, 2015, as recommended by the governor in a message to the general court dated May 12, 1998 pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved June 8, 1998.

Chapter 147. AN ACT RELATIVE TO EXECUTORS.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (b) of section 6 of chapter 65C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- For dates of death on or after January 1, 1997, said certificate of the commissioner shall not be required.

SECTION 2. Subsection (a) of section 14 of said chapter 65C, as so appearing, is hereby amended by adding the following sentence:- For dates of death on or after January 1, 1997, an affidavit of the executor, subscribed to under the pains and penalties of perjury, recorded in the appropriate registry of deeds and stating that the gross estate of the decedent does not necessitate a federal estate tax filing, shall release the gross estate of the lien imposed by this section.

SECTION 3. Section 32 of chapter 202 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- For dates of death on or after January 1, 1997, said certificate of the commissioner shall not be required.

Approved June 11, 1998.

Chapter 148. AN ACT RELATIVE TO ELECTED OFFICIALS IN THE TOWN OF SEEKONK.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the amount of compensation paid to elected officials in the town of Seekonk, ex-

cepting the elected position of town clerk, shall not make said officials eligible for medical, dental or life insurance coverage.

SECTION 2. This act shall take effect upon its passage.

Approved June 11, 1998.

Chapter 149. AN ACT ENLARGING THE TERRITORY OF THE WARREN WATER DISTRICT.

Be it enacted, etc., as follows:

SECTION 1. Chapter 390 of the acts of 1920 is hereby amended by striking out section 1, as amended by section 1 of chapter 699 of the acts of 1989, and inserting in place thereof the following section:-

Section 1. The inhabitants of the town of Warren who reside within the territory situated within the following boundary lines, to wit: Starting at the intersection of the center line of the West Brookfield Road, Route 67, and the center line of Patrick Road; thence running westerly to the intersection of the center line of Coy Hill Road and the center line of Reynolds Road; thence continuing westerly to the easterly boundary line of West Warren Water District at a point in said easterly boundary line distant 1,000 feet northerly measured along said easterly boundary line from the center line of Old West Warren Road; thence southerly along said easterly boundary line to the center line of Route 67, also called Main Street; thence continuing southerly along said easterly boundary line to the southerly side line of the Conrail Railroad right of way; thence southeasterly to a point in the center line of Reed Street distant 1,500 feet southerly from and measured along said center line of Reed Street from its intersection with the center line of Bridge Street; thence southerly to a point in the northerly line of the land of Massachusetts Turnpike distant 500 feet westerly from the center line of Route 19, Brimfield Road; thence easterly along the northerly line of said Massachusetts Turnpike to a point 500 feet easterly from the center line of Brimfield Road; thence northerly to a point 500 feet easterly of the center line of Brimfield Road where it intersects with the center line of Bay Path Road; thence easterly to a point in the center line of Bemis Road at the westerly corner of Lot 10 shown on a Plan of Land recorded with Worcester District Registry of Deeds in Plan Book 470, Plan 82; thence southerly and easterly along said land shown in Plan Book 470, Plan 82 to the center line of Southbridge Road; thence northerly to a point in the center line of East Road at the southwesterly corner of land of Elizabeth Willis, distant approximately 820 feet easterly from the intersection of East Road and the northerly line of Washington Street; thence northerly to the center line of the terminus of Patrick Road; thence easterly along the center line of Patrick Road to the point of beginning, shall constitute a water district, and are hereby made a body corporate by the name of the Warren Water District, for the purpose of supplying themselves with water for the extinguishment of fires and for domestic and other purposes, for assessing and

Chap. 149

raising taxes for payment of such services, and for defraying the necessary expenses to carry on the business of said district.

SECTION 2. This act shall take effect upon its acceptance within one year at a meeting of the Warren Water District at which persons constituting the Water District as herein established shall be entitled to vote. Upon acceptance as provided herein the redefined Warren Water District shall be the corporate successor to the former Warren Water District and shall succeed to all property, liabilities and contracts of the Warren Water District as previously established.

Approved June 11, 1998.

Chapter 150. AN ACT RELATIVE TO THE ELIGIBLE LIST FOR POLICE SERVICE IN THE CITY OF BOSTON.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, John Ridge of the city of Boston, son of William J. Ridge, a deceased police officer of said city, for the purpose of placement on the eligible list for appointment for the position of police officer in said city, shall be considered to be a son of a police officer, who while in the performance of his duties and as a result of an assault on his person, was killed or sustained injuries resulting in his death, as provided in section 26 of chapter 31 of the General Laws provided that he passes the required written and physical examination for entrance to police service.

Approved June 11, 1998.

Chapter 151. AN ACT AUTHORIZING THE CITY OF FALL RIVER TO USE A CERTAIN PARCEL OF LAND FOR SCHOOL DEPARTMENT AND PARK DEPARTMENT PURPOSES.

Be it enacted, etc., as follows:

SECTION 1. The city of Fall River is hereby authorized to use a certain portion of a parcel of water department land containing 22.29545 acres, more or less, located in said city of Fall River for the construction of a new public elementary school, athletic fields and recreational and park facilities. Said portion of parcel being described as follows:

The land located on the east side of Meridian Street in the city of Fall River, Massachusetts, bounded and described as follows:

Beginning at a point in the easterly line of Meridian Street located 1073.40 feet southerly of Wilson Road;

Chap. 151

Thence $S73^{\circ}52'27''E$ for a distance of 141.49 feet by land now or formerly of Ronald James and Claudia Rose Martin and land of Richard A. and Joyce Levesque;

Thence continuing $S78^{\circ}06'04''E$ for a distance of 80.30 feet by land of said Richard A. and Joyce Levesque and land of Silverio and Esmeralda Hermenegildo;

Thence continuing $S71^{\circ}40'01''E$ for a distance of 44.15 feet by land now or formerly of the said Silverio and Esmeralda Hermenegildo;

Thence continuing $S77^{\circ}22'16''E$ for a distance of 118.09 feet by land now or formerly of Junencio B. and Helen M. Silvia;

Thence continuing $S76^{\circ}05'23''E$ for a distance of 170.09 feet by land now or formerly of Raymond and Laura Cousineau and land of Antone A. and Pauline H. Reis;

Thence continuing $S76^{\circ}37'52''E$ for a distance of 91.37 feet by land of the said Antone A. and Pauline H. Reis;

Thence continuing $S76^{\circ}47'21''E$ for a distance of 523.47 feet by land now or formerly of Robert P. and Paula J. Dodge, Gerald and Geraldine Freitas, David and Renee A. Raymondo, Kevin J. and Sandra A. McCarthy, Manuel and Maria Medeiros, and Carlos M. and Maria L. Frias;

Thence $S13^{\circ}12'39''W$ for a distance of 587.14 feet;

Thence $S19^{\circ}12'49''W$ for a distance of 648.37 feet;

Thence turning and continuing $N77^{\circ}56'38''W$ for a distance of 537.05 feet to a granite bound;

Thence continuing $N77^{\circ}56'38''W$ for a distance of 296.40 feet to a granite bound;

Thence turning and continuing $N09^{\circ}13'00''E$ for a distance of 210.50 feet to a cemetery lot;

Thence turning and running $S81^{\circ}00'34''E$ by said cemetery lot for a distance of 21.53 feet;

Thence continuing $S72^{\circ}53'17''E$ by said cemetery for a distance of 12.83 feet;

Thence turning and running $N12^{\circ}25'13''E$ for a distance of 68.15 feet in the easterly line of said cemetery lot;

Thence turning and running $N76^{\circ}38'04''W$ for a distance of 38.14 feet in the northerly line of said cemetery lot;

Thence $N09^{\circ}13'00''E$ for a distance of 51.64 feet by land now or formerly of William A. Silvia to a granite bound;

Thence $S77^{\circ}26'57''E$ for a distance of 169.91 feet by land now or formerly of William T. Babcock, Jr. and Tania Babcock to a granite bound;

Thence turning and running $N12^{\circ}53'30''E$ for a distance of 320.12 feet;

Thence turning and running $N77^{\circ}10'31''W$, partly in the line of the remains of a stone wall, for a distance of 558.19 feet to a point in the easterly line of Meridian Street;

Thence turning and running $N00^{\circ}45'08''W$ in the easterly line of Meridian Street for a distance of 600.46 feet to the point of beginning;

Said parcel containing 22.29545 acres, more or less, and being shown on a plan entitled "Plan of Land in Fall River, Massachusetts, Assessor's Plate V-5, Lots 6, 8, 9, 13, & 14", dated February 12, 1998, on file with the Planning Department of the city of Fall River.

Chap. 151

SECTION 2. This act shall take effect upon its passage.

Approved June 19, 1998.

Chapter 152. AN ACT RELATIVE TO THE REMOVAL OF EGGS FROM FEMALE LOBSTERS.

Be it enacted, etc., as follows:

SECTION 1. Section 2 of chapter 130 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "law", in line 5, the following words:- or regulations promulgated by the division.

SECTION 2. Said chapter 130 is hereby further amended by striking out section 41, as so appearing, and inserting in place thereof the following section:-

Section 41. Any person who takes, sells or has in possession any female lobster bearing externally attached eggs shall be punished for the first offense by a fine of not less than \$150 nor more than \$500 for every such lobster and for a subsequent offense by a fine of not less than \$500 nor more than \$1,000 for every such lobster, or by imprisonment for not less than 60 days nor more than six months, or both such fine and imprisonment. A person who takes any such lobster and immediately returns it alive to the waters from which it was taken shall not be subject to such penalty. This section shall not apply to lobsters extruding eggs in fish cars or pounds if they are immediately liberated alive in the coastal waters, nor to the taking or possession of lobsters as provided in section 43.

SECTION 3. Said chapter 130 is hereby further amended by striking out section 41A, as so appearing, and inserting in place thereof the following section:-

Section 41A. Any person who takes, sells or has in his possession any female lobster from which the eggs have been removed by means other than natural hatching, shall be punished for the first offense by a fine of not less than \$250 nor more than \$1,000 for every such lobster and for a subsequent offense by a fine of not less than \$1,000 nor more than \$2,000 for every such lobster, or by imprisonment for not less than 90 days nor more than one year, or both such fine and imprisonment. Detection on a female lobster of any substance capable of removing attached eggs or of physical evidence that attached eggs have been removed by a method other than by natural hatching shall be prima facie evidence that a violation of this section has occurred. Any environmental police officer, deputy environmental police officer or the director or his designee may, in the performance of his duties, remove one or more appendages from any lobster for testing purposes.

Approved June 19, 1998.

Chapter 153. AN ACT AUTHORIZING AND DIRECTING THE DEPARTMENT OF REVENUE TO REFUND A CERTAIN OVERPAYMENT.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the department of revenue is hereby authorized and directed to refund the overpayment of the 1991 income tax of Catherine Burns of the city of Arlington.

Approved June 25, 1998.

Chapter 154. AN ACT AUTHORIZING THE TOWN OF ASHBY TO CONTINUE THE EMPLOYMENT OF ELMER S. FITZGERALD, JR. AS FIRE CHIEF.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, Elmer S. Fitzgerald, Jr., chief of the fire department of the town of Ashby, may continue in such position until June 30, 2000; provided, however, that he is mentally and physically capable of performing the duties of such office. Said Elmer S. Fitzgerald, Jr. shall, at his own expense, be examined by an impartial physician designated by said town to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter 32 of the General Laws for service subsequent to June 30, 1998 and upon retirement said employee shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on said date.

SECTION 2. This act shall take effect upon its passage.

Approved June 25, 1998.

Chapter 155. AN ACT RELATIVE TO THE TRANSFER OF CERTAIN MOTOR VEHICLE REGISTRATIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to affect forthwith the transfer of registrations of certain motor vehicles, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The fifth paragraph of section 2 of chapter 90 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the second, third

and fourth sentences and inserting in place thereof the following two sentences:- A person who has attained 18 years of age and who transfers the ownership of a registered motor vehicle or trailer owned by him to another or who loses possession thereof and who intends to transfer the registration of such motor vehicle or trailer to a newly acquired new motor vehicle or newly acquired used motor vehicle of the same type and having the same number of wheels may, subject to other provisions of this chapter, operate such newly acquired new motor vehicle or trailer or newly acquired used motor vehicle or trailer for a period beginning from the date of transfer until five o'clock post meridian of the seventh calendar day following the date of transfer within the period for which the transferred vehicle was registered; provided, however, that the number plates issued upon registration of the transferred motor vehicle or trailer shall be attached to the newly acquired vehicle. During such period any operator of the newly acquired vehicle shall carry an original copy of the bill of sale reciting the registration number to be transferred from the former vehicle to the newly acquired vehicle or the certificate of transfer issued by the dealer on a form approved by the registrar in place of the certificate of registration.

SECTION 2. Section 113A of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following paragraph:-

Notwithstanding the foregoing provisions, a policy covering a registered motor vehicle or trailer which is being transferred as provided in section 2 of chapter 90 shall continue in force and cover a newly acquired new motor vehicle or trailer or a newly acquired used motor vehicle or trailer for a period beginning from the date of transfer of the registered motor vehicle or trailer until five o'clock post meridian of the seventh calendar day following the date of transfer within the period for which the transferred motor vehicle or trailer was registered; provided, however, that the number plates issued upon registration of the transferred motor vehicle or trailer shall be attached to the newly acquired vehicle.

Approved June 25, 1998.

Chapter 156. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1998 TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make appropriations forthwith for the fiscal year ending June 30, 1998 and to make certain changes in law, each of which is necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations and to meet certain requirements of law, the sum set forth in section 2 shall be appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in the general appropriation act or other appropriation acts for the fiscal year ending June 30, 1998. The sum appropriated in said section 2 shall be in addition to any amounts previously appropriated and made available for the purposes of said item.

SECTION 2.
TREASURER AND RECEIVER-GENERAL.
Office of the Treasurer and Receiver-General.

0612-2000 \$324,731

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth herein are hereby appropriated from the General Fund unless specifically designated otherwise and shall be for the several purposes and subject to the conditions specified herein, and subject to the provisions of law regulating the disbursement of public funds for the fiscal year ending June 30, 1998. The sums appropriated herein shall be in addition to any amounts previously appropriated and made available for the purposes of said items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.
Reserves.

1599-3864 For certain expenses associated with the abolition of Worcester and Hampden counties; provided, that \$30,000 shall be expended for salaries and benefits for the treasurers and treasurers' staffs of said counties; and provided further, that \$1,223,000 shall be expended for payment to the Insurance Trust Fund of Hampden county and for the cost of providing dental and optical coverage, so-called \$1,253,000

SECTION 2C.I. For the purpose of making available in fiscal year 1999 balances of appropriations which otherwise would revert on June 30, 1998, the unexpended balance of the appropriation listed below, not to exceed the amount specified below for the item, is hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 of the general appropriation act for fiscal year 1999; provided, however, that an item which does not appear in said section 2 of said general appropriation act, the amount in this section is hereby re-appropriated for the purposes of and subject to the conditions stated for the corresponding item in section 2 or 2A of this act or in prior appropriation acts. The amount in this section is re-appropriated from the funds designated for the corresponding item in said section 2 of said general appropriation act; provided, however, that for an item which does not appear in said section 2 of said general

appropriation act, the amount in this section is hereby re-appropriated from the funds designated for the corresponding item in said section 2 or 2A of this act or in prior appropriation acts. The sum re-appropriated herein shall be in addition to any amounts available for said purposes.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Reserves.

1599-3864 \$1,253,000

SECTION 3. Notwithstanding the provisions of section 6 of chapter 48 of the acts of 1997 and with the approval of the secretary of administration and finance, the treasurers of Worcester and Hampden counties may retain after the transition dates of said counties, assets in the amounts necessary to meet payroll obligations to county employees for the period from June 21, 1998 to June 30, 1998, inclusive. Assets retained by said treasurers in accordance with the provisions of this section may not be disbursed for any purpose other than payroll obligations for the aforementioned period.

Approved June 26, 1998.

Chapter 157. AN ACT CORRECTING AND EXTENDING THE ONE TRIAL SYSTEM FOR CIVIL CASES IN NORFOLK AND MIDDLESEX COUNTIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to correct and extend forthwith the one trial system for civil cases pilot program in Norfolk and Middlesex counties which would otherwise expire on July 1, 1998, it is therefore hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 11 of chapter 358 of the acts of 1996 is hereby amended by striking out the words "appeals of denials" and inserting in place thereof the following words:- appeals in the district court of denials.

SECTION 2. Section 13 of said chapter 358 is hereby amended by striking out the words "two years" and inserting in place thereof the following words:- 49 months.

SECTION 3. Section 14 of said chapter 358 is hereby amended by striking out the words "After July first, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- After July 31, 2000.

SECTION 4. Section 15 of said chapter 358 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The chief justice for administration and management of the trial court, in consultation with the chief justices for the superior court and the district court departments, shall prepare and file with the supreme

Chap. 157

judicial court and with the clerks of the senate and house of representatives and the house and senate committees on ways and means, an interim report on the implementation of this act, on or before October 31, 1998 and a final report on said implementation on or before October 31, 1999.

Approved June 29, 1998.

Chapter 158. AN ACT RELATIVE TO THE NOTIFICATION PROCEDURES REGARDING PRIVATIZATION CONTRACTS.

Be it enacted, etc., as follows:

SECTION 1. Section 53 of chapter 7 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the definition of "Agency" the following definition:-

"Business day", any calendar day excluding Saturdays, Sundays, and legal holidays.

SECTION 2. Subsection (a) of section 55 of said chapter 7, as so appearing, is hereby amended by inserting after the word "thirty", in line 2, the following word:- business.

SECTION 3. Said subsection (a) of said section 55 of said chapter 7, as so appearing, is hereby further amended by adding the following sentence:- The state auditor may extend the time for such objection for an additional period of 30 business days beyond the original 30 business days by written notice to the submitting agency stating the reason for such extension.

Chapter one hundred and fifty-eight was returned by the Lieutenant-Governor, Acting Governor to the House of Representatives, the branch in which it originated, with his objections thereto in writing. Said Chapter was passed by the House of Representatives on February 6, 1998 and by the Senate on June 25, 1998, the objections of the Lieutenant-Governor, Acting Governor notwithstanding; in the manner prescribed by the Constitution; and therefore has the force of law.

Chapter 159. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1999 PRIOR TO FINAL ACTION ON THE GENERAL APPROPRIATION BILL FOR SAID FISCAL YEAR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the amount of \$800,000,000 is hereby appropriated for the fiscal year ending June 30, 1999 to meet necessary expenditures prior to the enactment of the general appropriation act for said fiscal year for the maintenance and operations of the several departments, boards,

Chap. 159

commissions and institutions, including federal grant and Intragovernmental Service Fund expenditures, for other necessary services and for meeting certain requirements of law; provided, however, that the authorization contained herein shall cease to be operative as of the effective date of the general appropriation act for said fiscal year and all actions taken under this section shall apply against said general appropriation act; and provided further, that all expenditures made under this authorization shall be consistent with appropriations made in said general appropriation act.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the unexpended balances of all capital accounts which would otherwise revert on June 30, 1998 but which are necessary to fund obligations during July, 1998, are hereby reauthorized through July 31, 1998; provided, however, that the reauthorizations contained herein shall terminate upon enactment of capital account extension legislation.

SECTION 3. Section 1 shall take effect on July 1, 1998. Section 2 shall take effect on June 30, 1998.

Approved June 30, 1998.

Chapter 160. AN ACT RELATIVE TO LIABILITY ON FOREIGN ACCOUNTS.

Be it enacted, etc., as follows:

Chapter 167D of the General Laws is hereby amended by adding the following section:-

Section 36. Notwithstanding the provisions of any general or special law to the contrary, a bank, a federal bank or a Massachusetts branch as defined in section 1 of chapter 167, shall not be required to repay any deposit made at a branch of such bank, federal bank or Massachusetts branch located in a foreign country, or any deposit made with any of the foregoing in the currency of a foreign country if repayment of such deposit or the use of such assets denominated in said foreign currency is prevented, prohibited or otherwise blocked due to (a) an act of war, insurrection or civil strife; or (b) any action by a foreign government or instrumentality, or authority asserting governmental, military or police power of any kind, whether such authority be recognized as a defacto or de jure government, or by any entity, political or revolutionary movement or otherwise that usurps, supervenes or otherwise materially impairs the normal operation of civil authority; or (c) the closure of such foreign branch in order to prevent, in the reasonable judgment of the bank, harm to the bank's employees or property.

The obligation to repay any such deposit shall not be transferred to and may not be enforced against any other branch of such bank, federal bank or Massachusetts branch.

Prior to the opening of any account for a retail customer that is subject to this section and with respect to any such account in existence on the effective date of this section, upon

said effective date, such bank, federal bank or Massachusetts branch shall disclose to the prospective account holder the effect of the provisions of this section. Such bank, federal bank or Massachusetts branch shall also disclose to all current account holders the effect of the provisions of this section. Any such bank, federal bank or Massachusetts branch which fails to provide such disclosure shall not be entitled to avail itself of the provisions of this section.

Approved July 2, 1998.

Chapter 161. AN ACT MAKING CERTAIN CORRECTIVE CHANGES IN CERTAIN GENERAL AND SPECIAL LAWS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make forthwith corrective changes in certain general and special laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 62 of chapter 3 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "secretary of the executive office of communities and development hereinafter referred to as secretary" and inserting in place thereof the following words:- director of housing and community development hereinafter referred to as director.

SECTION 2. Said section 62 of said chapter 3, as so appearing, is hereby further amended by striking out, in line 15, the words "The said secretary" and inserting in place thereof the following words:- Said director.

SECTION 3. Said section 62 of said chapter 3, as so appearing, is hereby further amended by striking out, in lines 19 and 20, and in line 27, the words "the said secretary" and inserting in place thereof, in each instance, the following words:- said director.

SECTION 4. Section 1 of chapter 5 of the General Laws, as so appearing, is hereby amended by striking out, in lines 29 and 30, and in lines 33 and 34, the words "commissioner of labor and industries" and inserting in place thereof, in each instance, the following words:- director of labor and workforce development.

SECTION 5. Said section 1 of said chapter 5, as so appearing, is hereby further amended by striking out, in lines 47 and 65, the word "industries" and inserting in place thereof, in each instance, the following words:- workforce development.

SECTION 6. Section 40 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 4, and in line 9, the first time it appears, the following words:- health and.

Chap. 161

SECTION 7. Section 75 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 4, the first time it appears, and in line 55, the following words:- health and.

SECTION 8. Said section 75 of said chapter 6, as so appearing, is hereby further amended by inserting after the word "of", in line 47, the first time it appears, the following words:- health and.

SECTION 9. Section 76 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in lines 2 and 17, each time it appears, the following words:- health and.

SECTION 10. Section 78A of said chapter 6, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words "rate setting commission" and inserting in place thereof the following words:- the operational services division within the executive office of administration and finance.

SECTION 11. Section 81 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 2 to 4, inclusive, the words "and industries, the department of employment and training in the executive office of economic affairs, the departments of public welfare" and inserting in place thereof the following words:- and workforce development, the division of employment and training in said department, the departments of transitional assistance.

SECTION 12. Said section 81 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 12 and 15, the word "department", each time it appears, and inserting in place thereof, in each instance, the following word:- division.

SECTION 13. Section 91 of said chapter 6, as so appearing, is hereby amended by inserting after the word "departments", in lines 1 and 31, the following word:- , divisions.

SECTION 14. Said section 91 of said chapter 6, as so appearing, is hereby further amended by striking out, in line 12, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 15. Said section 91 of said chapter 6, as so appearing, is hereby further amended by striking out, in line 14, the word "department" and inserting in place thereof the following word:- division.

SECTION 16. Section 105 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be a commission on the employment of people with disabilities, in this section and sections 106 and 107, called the commission, consisting of the director of housi community development, the director of consumer affairs and business regulation, the director of economic development, the secretary of health and human services, the director of labor and workforce development, the secretary of transportation and construction, the commissioner of the Massachusetts commission for the blind, the commissioner of the commission for the deaf and hard of hearing, the commissioner of correction, the commissioner of education, the deputy director of employment and training, the commissioner of industrial accidents, the commissioner of health care finance and policy, the commissioner of mental health, the commissioner of public health, the commissioner of transitional assistance, the commissioner

Chap. 161

of social services, the commissioner of youth services, the commissioner of the Massachusetts rehabilitation commission, the commissioner of veterans' services, the chancellor of the system of public higher education, the chairman of the Massachusetts developmental disabilities council, the director of the office of affirmative action, the director of the Massachusetts office on disability and the personnel administrator of the human resources division within the executive office for administration and finance, or their respective designees, who shall serve as ex officio members, and 28 members to be appointed by the governor, three of whom shall represent rehabilitation programs, three of whom shall represent industry, three of whom shall represent employment boards, two of whom shall represent labor, two of whom shall represent education and one of whom shall represent veterans' organizations.

SECTION 17. Section 108 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 7 and 25, the word "deputy", each time it appears.

SECTION 18. Said section 108 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 13 and 17, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 19. Section 127 of said chapter 6, as so appearing, is hereby amended by striking out, in line 8, the word "department" and inserting in place thereof the following word:- division.

SECTION 20. Section 129 of said chapter 6, as so appearing, is hereby amended by inserting after the words "secretary of", in lines 10, 19 and 28, each time they appear, the following words:- health and.

SECTION 21. Section 166 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 1, the following words:- health and.

SECTION 22. Section 166B of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 1, in line 7, the second time it appears, and in line 15, the third time it appears, the following words:- health and.

SECTION 23. Section 168 of said chapter 6, as so appearing, is hereby amended by striking out, in line 32, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 24. Section 181 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 1, and in line 7, the first time it appears, the following words:- health and.

SECTION 25. Said section 181 of said chapter 6, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 26. Section 183A of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

Chap. 161

SECTION 27. Section 189 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "secretary of communities and development, the secretary of transportation and construction, the secretary of consumer affairs" and inserting in place thereof the following words:- director of housing and community development, the secretary of transportation and construction, the director of consumer affairs and business regulation.

SECTION 28. Section 190 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretary of economic affairs and the secretary of labor" and inserting in place thereof the following words:- director of economic development and the director of labor and workforce development.

SECTION 29. Said section 190 of said chapter 6, as so appearing, is hereby further amended by striking out, in line 22, the words "commissioner of the department" and inserting in place thereof the following words:- deputy director.

SECTION 30. Section 193 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 1, the following words:- health and.

SECTION 31. Section 197 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 16, the third time it appears, the following words:- health and.

SECTION 32. Section 202 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "human services or his designee; the secretary of economic affairs" and inserting in place thereof the following words:- health and human services or his designee; the director of economic development.

SECTION 33. Section 203 of said chapter 6, as so appearing, is hereby amended by inserting after the word "of", in line 34, the following words:- health and.

SECTION 34. Section 204 of said chapter 6, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "secretary of economic affairs or his designee, the secretary of labor" and inserting in place thereof the following words:- director of economic development or his designee, the director of labor and workforce development.

SECTION 35. Section 208 of said chapter 6, inserted by section 171 of chapter 133 of the acts of 1992, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There is hereby established a council, to be known as the governor's advisory council for refugees and immigrants, to consist of not less than 15 members and not more than 30 members, such members to serve without compensation. The members of the council shall be appointed by the governor for terms of one year. The membership of the council shall consist of persons who live in the commonwealth and shall include refugees, immigrants and other interested individuals. The chairman of the council shall be appointed by the governor and shall serve for a term of one year. The following shall also serve as members of the council, ex officio: the attorney general; the secretaries of the executive offices of health and human services and public safety, the director of the department of housing and community development, the commissioners of education, transitional assistance, public health, mental

health, office of child care services and employment and training and representatives from such other secretariats, departments, divisions or agencies as the governor, the secretary of health and human services, the director of the office for refugees and immigrants or the council may request. Such ex officio members may be represented by designees.

SECTION 36. Section 3 of chapter 6A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 5, the words "human services, the secretary of economic affairs," and inserting in place thereof the following words:- health and human services.

SECTION 37. Section 8A of said chapter 6A, as so appearing, is hereby amended by striking out, in line 1, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 38. Said section 8A of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 22 and 23, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 39. Said section 8A of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the words "the said secretary," and inserting in place thereof the following words:- said director.

SECTION 40. Section 16 of said chapter 6A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "department of medical security" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 41. Said section 16 of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 31 and 32, the words "the rate setting commission established by section thirty-two;"

SECTION 42. Section 18B of said chapter 6A, as so appearing, is hereby amended by striking out, in line 3, the word "secretary", the second time it appears, and inserting in place thereof the following words:- director of the office.

SECTION 43. Said section 18B of said chapter 6A, as so appearing, is hereby further amended by striking out, in lines 5 and 6, the words "director of the office of management information systems" and inserting in place thereof the following words:- chief information officer of the information technology division.

SECTION 44. Section 4B of chapter 7 of the General Laws is hereby repealed.

SECTION 45. Section 4I of said chapter 7, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 29, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division.

SECTION 46. Section 4J of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in line 5, the words "department of personnel administration" and inserting in place thereof, in each instance, the following words:- human resources division.

SECTION 47. Section 6F of said chapter 7, as so appearing, is hereby amended by striking out, in line 2, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division.

SECTION 48. Section 22 of said chapter 7, as so appearing, is hereby amended by striking out, in lines 72 and 73, 77, 86 and 87, 89, 121 and 125, the words "commissioner of labor and industries" and inserting in place thereof, in each instance, the following words:- director of labor and workforce development.

SECTION 49. Said section 22 of said chapter 7, as so appearing, is hereby further amended by striking out, in line 91, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 50. Section 30 of said chapter 7, as so appearing, is hereby amended by striking out, in line 1, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division.

SECTION 51. Section 40A of said chapter 7, as so appearing, is hereby amended by striking out, in line 20, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 52. Section 40G of said chapter 7, as so appearing, is hereby amended by striking out, in line 42, the word "department" and inserting in place thereof the following word:- division.

SECTION 53. Section 40L of said chapter 7, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The commissioner shall review rules and regulations promulgated by the director of housing and community development for the acquisition, utilization and disposition of real property and shall recommend approval or disapproval of such rules and regulations to said director.

SECTION 54. Section 43C of said chapter 7, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 55. Section 54 of said chapter 7, as so appearing, is hereby amended by striking out, in line 26, the word "department" and inserting in place thereof the following word:- division.

SECTION 56. Section 26 of chapter 9 of the General Laws, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 57. Section 12 of chapter 11 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 33, the third time it appears, the following words:- health and.

SECTION 58. Section 3E of chapter 12 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 3, the first time it appears, and in line 7, the second time it appears, the following words:- health and.

SECTION 59. Chapter 13 of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:- DIVISION AND BOARDS OF REGISTRATION.

SECTION 60. Section 10A of said chapter 13, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 1 and 5, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 61. Section 11C of said chapter 13, as so appearing, is hereby amended by striking out, in line 2, the word "executive".

SECTION 62. Section 79 of said chapter 13, as so appearing, is hereby amended by striking out, in lines 17 and 27, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 63. Section 90 of said chapter 13, as so appearing, is hereby amended by striking out, in lines 18 and 21, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 64. Section 54 of chapter 15 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in lines 80 and 88, each time they appear, the following words:- health and.

SECTION 65. Section 2 of chapter 15A of the General Laws is hereby amended by striking out, in lines 28 and 29, as so appearing, the words ", the general court, and the secretary of education," and inserting in place thereof the following words:- and the general court.

SECTION 66. Section 3A of said chapter 15A, as so appearing, is hereby amended by striking out, in line 26, the words "secretary of education" and inserting in place thereof the following words:- board of education and the board of higher education.

SECTION 67. Section 4 of said chapter 15A is hereby amended by striking out, in line 47, as so appearing, the words "and the secretary".

SECTION 68. Section 9 of said chapter 15A is hereby amended by striking out, in lines 32 and 33, as so appearing, the words ", the secretary of education".

SECTION 69. The first paragraph of section 15 of said chapter 15A, as so appearing, is hereby amended by striking out the last sentence.

SECTION 70. Section 18 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 14, 16 and 17 and 36, the words "department of medical security" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 71. Section 39 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "secretary in consultation with the council and the board of education" and inserting in place thereof the following words:- board of education in consultation with the board of higher education.

SECTION 72. Section 4 of chapter 15C of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the words "secretary for economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 73. Section 2 of chapter 17 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 14, the first time it appears, the following words:- health and.

SECTION 74. Section 4 of said chapter 17, as so appearing, is hereby amended by inserting after the word "of", in lines 11 and 14, the second time it appears, in each instance, the following words:- health and.

SECTION 75. Section 7A of said chapter 17, as so appearing, is hereby amended by inserting after the word "of", in line 1, the second time it appears, the following words:- health and.

SECTION 76. Section 3 of chapter 18 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 3, the following words:- health and.

SECTION 77. Section 28 of said chapter 18, as so appearing, is hereby amended by inserting after the word "of", in line 15, the following words:- health and.

SECTION 78. Section 1 of chapter 18A of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 4, the following words:- health and.

SECTION 79. Section 3 of said chapter 18A, as so appearing, is hereby amended by inserting after the word "of", in line 2, the following words:- health and.

SECTION 80. Section 9 of said chapter 18A, as so appearing, is hereby amended by inserting after the word "of", in line 11, the first time it appears, in line 16 and in line 17, the second time it appears, the following words:- health and.

SECTION 81. Section 3 of chapter 18B of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 4, the following words:- health and.

SECTION 82. Section 6 of said chapter 18B, as so appearing, is hereby amended by inserting after the word "of", in line 3, the following words:- health and.

SECTION 83. Section 2 of chapter 19 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in lines 1 and 7, each time it appears, the following words:- health and.

SECTION 84. Section 3 of said chapter 19, as so appearing, is hereby amended by inserting after the word "of", in line 2, the following words:- health and.

SECTION 85. Section 11 of said chapter 19, as so appearing, is hereby amended by inserting after the word "of", in line 2, the second time it appears, the following words:- health and.

SECTION 86. Section 21 of said chapter 19, as so appearing, is hereby amended by inserting after the word "of", in line 1, the following words:- health and.

SECTION 87. Section 4B of chapter 19A of the General Laws, as so appearing, is hereby amended by striking out, in line 40, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 88. Section 11 of said chapter 19A, as so appearing, is hereby amended by striking out, in line 2, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 89. Section 2 of chapter 19B of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in lines 1 and 7, each time it appears, the following words:- health and.

Chap. 161

SECTION 90. Section 3 of said chapter 19B, as so appearing, is hereby amended by inserting after the word "of", in line 2, the following words:- health and.

SECTION 91. Section 18 of said chapter 19B, as so appearing, is hereby amended by inserting after the word "of", in line 1, the following words:- health and.

SECTION 92. Section 1 of chapter 19C of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in lines 21 and 28, each time it appears, the following words:- health and.

SECTION 93. Section 3 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in lines 13, 25, 26 and 27, each time it appears, the following words:- health and.

SECTION 94. Section 4 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in line 13, the following words:- health and.

SECTION 95. Section 5 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in line 3, the following words:- health and.

SECTION 96. Section 6 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in line 4, and in line 5, the first time it appears, the following words:- health and.

SECTION 97. Section 11 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in lines 5 and 7, each time it appears, the following words:- health and.

SECTION 98. Section 12 of said chapter 19C, as so appearing, is hereby amended by inserting after the word "of", in lines 10 and 11, each time it appears, the following words:- health and.

SECTION 99. Section 16 of chapter 19D of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 100. Section 17 of said chapter 19D, as so appearing, is hereby amended by striking out, in line 7, the words "secretary of communities and development or her" and inserting in place thereof the following words:- director of housing and community development.

SECTION 101. Section 8A of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 102. Section 17 of said chapter 21A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "commissioner of the department of labor and industries" and inserting in place thereof the following words:- director of labor and workforce development.

SECTION 103. Section 11 of chapter 21D of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 104. The first paragraph of section 4 of chapter 21I of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The council shall be composed of the secretary of environmental affairs or his designee, the commissioner of environmental protection or his designee, the director of economic development or his designee, the director of the office of science and technology or his designee, the commissioner of public health or his designee, the director of labor and workforce development or his designee and an employee of the commonwealth appointed by the governor.

SECTION 105. Section 6 of said chapter 21I, as so appearing, is hereby amended by striking out, in line 39, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 106. Said section 6 of said chapter 21I, as so appearing, is hereby further amended by striking out, in lines 87 to 89, inclusive, the words "secretary of the executive office of economic affairs, one member shall be nominated by the secretary of the executive office of labor," and inserting in place thereof the following words:- director of economic development, one member shall be nominated by the director of labor and workforce development.

SECTION 107. Said section 6 of said chapter 21I, as so appearing, is hereby further amended by inserting after the word "of", in line 90, the second time it appears, the following words:- health and.

SECTION 108. Section 15D of chapter 22 of the General Laws, as so appearing, is hereby amended by striking out, in line 15, the word "department" and inserting in place thereof the following word:- division.

SECTION 109. Section 66 of chapter 22C of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "commissioner of the department" and inserting in place thereof the following words:- deputy director of the division.

SECTION 110. Said section 66 of said chapter 22C, as so appearing, is hereby further amended by striking out, in lines 3 and 11, the word "department" and inserting in place thereof the following word:- division.

SECTION 111. Section 3 of chapter 23A of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "MOBD executive director" and inserting in place thereof the following words:- director of economic development.

SECTION 112. Section 3B of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 to 7, inclusive, the words "secretary of economic affairs or his designee, who shall serve as co-chairperson; the secretary of communities and development or his designee, who shall serve as co-chairperson; the secretary of labor or his designee; the director of MOBD or his designee" and inserting in place thereof the following words:- director of economic development or his designee, who shall serve as co-chairperson; the director of housing and community development or his designee, who shall serve as co-chairperson; the director of labor and workforce development or his designee; a representative of MOBD designated by the director of economic development.

SECTION 113. Section 3C of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 26 and 27, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 114. Said section 3C of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 38, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 115. Section 3D of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 58 and 59, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 116. Section 3E of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 113 and 130, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 117. Section 3F of said chapter 23A, as so appearing, is hereby amended by striking out, in line 73, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 118. Section 3H of said chapter 23A, as so appearing, is hereby amended by striking out, in line 1, the words "in the commonwealth" and inserting in place thereof the following words:- and the departments of economic development, housing and community development, labor and workforce development and the office of consumer affairs and business regulation.

SECTION 119. Said chapter 23A is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. The department of economic development shall have an office in western Massachusetts under the direct supervision of the director. Subject to appropriation, the director shall hire such employees as he may from time to time deem necessary for the proper performance of the functions of the office.

SECTION 120. Section 5 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 1, the words "executive director" and inserting in place thereof the following words:- director of economic development.

SECTION 121. Said section 5 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 2, the words "The executive director" and inserting in place thereof the following words:- Said director.

SECTION 122. Said section 5 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 9, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 123. Said chapter 23A is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. To assist MOBD in the discharge of its duties, the director of economic development may appoint, without regard to chapter 31, advisory committees on regional planning and commercial and industrial development from among interested citizens of the commonwealth.

Members of such committees shall receive no compensation for their services but may be reimbursed for their expenses. Such committees shall receive assistance from appropriate divisions of MOBD as designated by the director of economic development. Each committee shall annually, on or before November 1, make a report to the director of economic development and may make such special reports as it or the director of economic development may deem desirable.

SECTION 124. Section 7 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 1, the words "MOBD executive director" and inserting in place thereof the following words:- director of economic development.

SECTION 125. Section 8 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 126. Said chapter 23A is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. The director of economic development may, subject to appropriation, appoint and remove all employees of the MOBD including directors, as may be necessary to carry out the work of MOBD. Unless otherwise provided by law, all such appointments and removals shall be made in accordance with chapter 31. From time to time, the director of economic development may, subject to appropriation and the laws and regulations pertaining to the employment of consultants, employ such consultants as he may deem necessary.

SECTION 127. Section 13A of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs a department called the" and inserting in place thereof the following words:- department of economic development an.

SECTION 128. Said section 13A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 7, 8 and 9 and in line 22, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 129. Section 13C of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 130. Section 13D of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 131. Section 13E of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 132. Section 14 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "secretary of the executive office of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 133. Said section 14 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 55 and 56, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 134. Section 15 of said chapter 23A, as so appearing, is hereby amended by striking out the definition of "Executive director".

SECTION 135. Section 20 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 136. Section 23A of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs a department called the" and inserting in place thereof the following words:- department of economic development an.

SECTION 137. Said section 23A of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 7, and in lines 8 and 9, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 138. Section 25 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 139. Section 26 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 140. Section 27 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 141. Section 31 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "executive office of economic affairs but shall not be subject to the supervision or control of said office" and inserting in place thereof the following words:- department of economic development but shall not be subject to the supervision or control of said department.

SECTION 142. Said section 31 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 12, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 143. Said section 31 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 13, the words "the executive director of the Massachusetts office of business" and inserting in place thereof the following words:- a representative of the Massachusetts office of business development designated by the director of economic.

SECTION 144. Section 34B of said chapter 23A, as so appearing, is hereby amended by striking out, in line 16, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

Chap. 161

SECTION 145. Section 35 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 180, the words "commerce and" and inserting in place thereof the following word:- economic.

SECTION 146. Section 39A of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs a department called the" and inserting in place thereof the following words:- department of economic development an.

SECTION 147. Said section 39A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 8 and 9, 10 and 11, and in line 25, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 148. Section 39B of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 149. Section 39C of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 150. Section 39D of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 151. Section 40 of said chapter 23A, as so appearing, is hereby amended by striking out the definition of "Secretary".

SECTION 152. Section 41 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 153. Section 42 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 154. Section 44 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 20 and 65, the word "secretary" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 155. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 25, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 156. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 26, the word "department" and inserting in place thereof the following word:- division.

SECTION 157. Said section 44 of said chapter 23A, as so appearing, is hereby further amended by inserting after the word "secretaries", in line 28, the following words:- and the directors of economic development, consumer affairs and business regulation, housing and community development and labor and workforce development and the commissioner of education.

Chap. 161

SECTION 158. Section 45 of said chapter 23A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be in the department of economic development and under the direct supervision of the director of economic development, an economic monitoring group. Subject to appropriation, the director of economic development shall hire such employees as he may from time to time deem necessary for the proper performance of the duties of the economic monitoring group.

SECTION 159. Said section 45 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 16 to 19, inclusive, the following words "department of employment and training, the executive office of economic affairs, the department of commerce and development, and the executive office of labor" and inserting in place thereof the following words:- division of employment and training, the department of economic development and the department of labor and workforce development.

SECTION 160. Said section 45 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 20, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 161. Section 46 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs a department called the" and inserting in place thereof the following words:- department of economic development an.

SECTION 162. Said section 46 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 6, and in lines 7 and 8, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 163. Section 48 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 2, 12 and 17, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 164. Section 49 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 165. Section 51 of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of economic affairs a department called the" and inserting in place thereof the following words:- department of economic development an.

SECTION 166. Said section 51 of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 6 and 7, and in lines 8 and 9, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 167. Section 53 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 2, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 168. Section 54 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 3, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 169. Section 56 of said chapter 23A, as so appearing, is hereby amended by striking out, in line 17, the words "the office of MOBD" and inserting in place thereof the following words:- economic development.

SECTION 170. Subsection (a) of section 59 of said chapter 23A, as so appearing, is hereby amended by striking out the definition of "Secretary".

SECTION 171. Said section 59 of said chapter 23A, as so appearing, is hereby further amended by striking out, in line 37, the word "secretary" and inserting in place thereof the following words:- director of economic development.

SECTION 172. Section 3 of chapter 23B of the General Laws, as so appearing, is hereby amended by striking out, in line 105, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 173. Said section 3 of said chapter 23B, as so appearing, is hereby further amended by striking out, in line 139, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 174. Section 5A of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 2 and 3 and in lines 7 and 14, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 175. Section 5B of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "executive office of communities and development to be appointed by the secretary of said executive office" and inserting in place thereof the following words:- department of housing and community development to be appointed by the director of said department.

SECTION 176. Said section 5B of said chapter 23B, as so appearing, is hereby further amended by inserting after the word "of", in line 6, the second time it appears, the following words:- health and.

SECTION 177. Said section 5B of said chapter 23B, as so appearing, is hereby further amended by striking out, in lines 10 and 14, the words "secretary of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 178. Said section 5B of said chapter 23B, as so appearing, is hereby further amended by inserting after the words "secretary of", in line 13, the following words:- health and.

SECTION 179. Said section 5B of said chapter 23B, as so appearing, is hereby further amended by striking out, in line 17, the words "secretaries of human services and communities and" and inserting in place thereof the following words:- secretary of health and human services, the director of housing and community.

Chap. 161

SECTION 180. Section 6 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 1 and 6, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 181. Section 8 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 1, 4 and 8, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 182. Said section 8 of said chapter 23B, as so appearing, is hereby further amended by striking out, in line 7, the words "assistant secretaries and directors of bureaus" and inserting in place thereof the following words:- associate directors and bureau chiefs.

SECTION 183. Section 9 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 1 and 7, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 184. Section 10 of said chapter 23B, as so appearing, is hereby amended by striking out, in line 10, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 185. Said section 10 of said chapter 23B, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "secretary of communities and development or such officer or employee of the department of community affairs as the secretary" and inserting in place thereof the following words:- director of housing and community development or such officer or employee of the department of housing and community development as the director.

SECTION 186. Section 11 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 187. Said section 11 of said chapter 23B, as so appearing, is hereby further amended by striking out, in lines 41 and 47, the words "secretary of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 188. Section 12 of said chapter 23B, as so appearing, is hereby amended by striking out, in line 10, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 189. Section 15 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 190. Section 24 of said chapter 23B, as so appearing, is hereby amended by striking out, in lines 7, 9, 11, 12, 54, 56, 58, 65, 66, 73, 80, 82, 84 and 87, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 191. Section 27 of said chapter 23B, as so appearing, is hereby amended by striking out, in line 56, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 192. Section 2 of chapter 23C of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "executive office of labor" and inserting in place thereof the following words:- department of labor and workforce development.

SECTION 193. Section 3 of chapter 23D of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the word "division" and inserting in place thereof the following word:- department.

SECTION 194. Said section 3 of said chapter 23D is hereby further amended by striking out, in lines 19 and 20, the words "division of" and inserting in place thereof the following words:- department of labor and.

SECTION 195. Section 19 of said chapter 23D, as so appearing, is hereby amended by striking out, in line 25, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 196. Chapter 23E of the General Laws is hereby amended by striking out the title and inserting in place thereof the following title:- DIVISION OF INDUSTRIAL ACCIDENTS.

SECTION 197. Section 2 of said chapter 23E, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the words "secretary of labor" and inserting in place thereof the following words:- director of labor and workforce development.

SECTION 198. Section 3 of said chapter 23E, as so appearing, is hereby amended by striking out, in line 54, the words "of industrial accidents from the department" and inserting in place thereof the following words:- from the division.

SECTION 199. Section 9 of said chapter 23E, as so appearing, is hereby amended by striking out, in line 27, the words "of industrial accidents".

SECTION 200. Section 11 of said chapter 23E, as so appearing, is hereby amended by striking out, in line 4, the word "department" and inserting in place thereof the following word:- division.

SECTION 201. Section 15 of said chapter 23E, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words "executive secretary of labor and the executive secretary of economic affairs" and inserting in place thereof the following words:- director of labor and workforce development and the director of economic development.

SECTION 202. Section 17 of said chapter 23E, as so appearing, is hereby amended by striking out, in line 21, the words "secretary of labor" and inserting in place thereof the following words:- director of labor and workforce development.

SECTION 203. Section 2 of chapter 23F of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "secretary of economic affairs, hereinafter referred to as the 'secretary'" and inserting in place thereof the following words:- director of economic development, hereinafter referred to as the "director".

SECTION 204. Said section 2 of said chapter 23F, as so appearing, is hereby further amended by striking out, in lines 15, 20, 24, 27, 35, 38 and 39, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

Chap. 161

SECTION 205. Said section 2 of said chapter 23F, as so appearing, is hereby further amended by striking out, in line 40, the word "secretary's" and inserting in place thereof the following word:- director's.

SECTION 206. Section 3 of said chapter 23F, as so appearing, is hereby amended by striking out, in line 39, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of economic development.

SECTION 207. Section 4 of said chapter 23F, as so appearing, is hereby amended by striking out, in line 20, the words "Secretary of Economic Affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 208. Section 8 of said chapter 23F, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretary of the executive office of economic affairs or the secretary's designee" and inserting in place thereof the following words:- director of economic development or his designee.

SECTION 209. Section 11C of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in lines 126 and 127, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 210. Said section 11C of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 128, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 211. Section 8H of chapter 26 of the General Laws, as so appearing, is hereby amended by striking out, in line 51, the words "chapter one hundred and eighteen F" and inserting in place thereof the following words:- section 18 of chapter 118G.

SECTION 212. Said section 8H of said chapter 26, as so appearing, is hereby further amended by striking out, in line 55, the words "department of medical security" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 213. Said section 8H of said chapter 26, as so appearing, is hereby further amended by striking out, in lines 58, 65 and 67, the word "departments" and inserting in place thereof, in each instance, the following words:- department and the division of health care finance and policy.

SECTION 214. Said section 8H of said chapter 26, as so appearing, is hereby further amended by inserting after the word "division", in line 63, the following words:- of insurance.

SECTION 215. Said section 8H of said chapter 26, as so appearing, is hereby further amended by striking out, in lines 70 and 71, the words "chapter one hundred and eighteen F" and inserting in place thereof the following words:- section 18 of chapter 118G.

SECTION 216. Section 3 of chapter 28A of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 3, the first time it appears, in line 20, the second time it appears, and in line 27, the following words:- health and.

SECTION 217. Section 4 of said chapter 28A, as so appearing, is hereby amended by inserting after the word "of", in line 24, the following words:- health and.

SECTION 218. Said section 4 of said chapter 28A, as so appearing, is hereby further amended by striking out, in lines 40 and 41, the words "office of labor, education and economic development, and the division of workforce development" and inserting in place thereof the following words:- board of education, board of higher education, department of labor and workforce development, department of economic development and the department of housing and community development.

SECTION 219. Section 8 of said chapter 28A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be a statewide advisory council to the office to consist of the secretary of health and human services, the director of economic development, the director of housing and community development and the chairman of the board of education, or their designees, 12 members appointed by the secretary of health and human services, with the approval of the governor, and 16 members elected by the local councils for children established under section 7.

SECTION 220. Said section 8 of said chapter 28A, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- The chairman shall be appointed by the secretary of health and human services, with the approval of the governor, from the appointed or elected members and shall serve as chairman at the pleasure of the secretary; provided, however, that no member shall serve as chairman for more than six years.

SECTION 221. Section 10 of said chapter 28A, as so appearing, is hereby amended by striking out, in lines 29 to 31, inclusive, the words ", the division of housing and community development, and the departments of economic development, youth services, mental health, mental retardation, public health and public welfare" and inserting in place thereof the following words:- and the departments of housing and community development, economic development, youth services, mental health, mental retardation, public health and transitional assistance.

SECTION 222. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Budget director" and inserting in place thereof the following definition:-

"Budget director", the administrative head of the fiscal affairs division within the executive office for administration and finance.

SECTION 223. Section 2Q of said chapter 29, as so appearing, is hereby amended by striking out, in line 6, the words "public employee retirement administration" and inserting in place thereof the following words:- human resources division.

SECTION 224. Section 7A of said chapter 29, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words "community affairs as defined in section one of chapter one hundred and twenty-one B" and inserting in place thereof the following words:- housing and community development.

Chap. 161

SECTION 225. Section 7C of said chapter 29, as so appearing, is hereby amended by striking out, in line 26, the words "budget bureau" and inserting in place thereof the following words:- fiscal affairs division within the executive office for administration and finance.

SECTION 226. Section 7D of said chapter 29, as so appearing, is hereby amended by striking out, in lines 4, 49 and 59, the words "budget bureau", each time they appear, and inserting in place thereof, in each instance, the following words:- fiscal affairs division within the executive office for administration and finance.

SECTION 227. Section 29A of said chapter 29, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 228. Section 29G of said chapter 29, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:- Notwithstanding the provisions of any general or special law to the contrary, the officer having charge of a state agency is hereby authorized to retain the services of private persons, companies, associations or corporations for the purpose of recoupment of overcharges to the commonwealth for utility expenses including, but not limited to, electric, gas, water and sewer expenses, pursuant to agreements between the operational services division within the executive office for administration and finance and any such private persons, companies, associations or corporations. The state purchasing agent of the operational services division shall, from time to time, enter into agreements with private persons, companies, associations or corporations for the provision of overcharge recoupment services on behalf of state agencies.

SECTION 229. Said section 29G of said chapter 29, as so appearing, is hereby further amended by striking out, in lines 17, 18, 20, 24, 27 and 29, the words "deputy commissioner" and inserting in place thereof, in each instance, the following words:- state purchasing agent.

SECTION 230. Section 7 of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "chairman of the industrial accident board in the department of labor and industries" and inserting in place thereof the following words:- the commissioner of industrial accidents in the department of labor and workforce development.

SECTION 231. Section 45 of said chapter 30, as so appearing, is hereby amended by striking out, in line 30, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 232. Section 1 of chapter 30A of the General Laws, as so appearing, is hereby amended by striking out, in line 24, the word "department" and inserting in place thereof the following word:- division.

SECTION 233. Section 13 of said chapter 30A, as so appearing, is hereby amended by striking out, in line 77, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 234. Section 1 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 235. Said section 1 of said chapter 31, as so appearing, is hereby further amended by striking out the definition of "Department" and inserting in place thereof the following definition:-

"Department" or "division", the human resources division within the executive office for administration and finance.

SECTION 236. Section 47A of said chapter 31, as so appearing, is hereby amended by striking out, in line 6, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of labor and workforce development.

SECTION 237. Said section 47A of said chapter 31, as so appearing, is hereby further amended by striking out, in line 10, the words "public welfare" and inserting in place thereof the following words:- transitional assistance.

SECTION 238. Said section 47A of said chapter 31, as so appearing, is hereby further amended by striking out, in line 58, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 239. Section 48 of said chapter 31, as so appearing, is hereby amended by striking out, in line 11, the word "department", the second time it appears, and inserting in place thereof the following word:- division.

SECTION 240. Said section 48 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 22, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 241. Said section 48 of said chapter 31, as so appearing, is hereby further amended by striking out, in line 50, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 242. Section 66 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "department of employment and training in the executive office of economic affairs" and inserting in place thereof the following words:- division of employment and training in the department of labor and workforce development.

SECTION 243. Section 2 of chapter 31A of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 244. Said section 2 of said chapter 31A, as so appearing, is hereby further amended by striking out the definition of "Department" and inserting in place thereof the following definition:-

Chap. 161

"Department" or "division", the human resources division within the executive office for administration and finance.

SECTION 245. Section 3 of said chapter 31A, as so appearing, is hereby amended by striking out, in line 9, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 246. Section 9 of said chapter 31A, as so appearing, is hereby amended by striking out, in line 1, and in lines 16 and 17, the words "department of personnel administration" and inserting in place thereof, in each instance, the following words:- human resources division within the executive office for administration and finance.

SECTION 247. Section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 496 and 497, the words "department of personnel administration" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance.

SECTION 248. Section 4 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 190 and 201, the word "department" and inserting in place thereof, in each instance, the following word:- division.

SECTION 249. Section 59A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "division of public employee retirement administration" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 250. Section 85H½ of said chapter 32, as so appearing, is hereby amended by inserting after the word "administration", in lines 15 and 28, each time it appears, the following word:- commission.

SECTION 251. Section 89 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 88 and 94, the word "industries" and inserting in place thereof, in each instance, the following words:- workforce development.

SECTION 252. Section 32B of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "commissioner of community affairs and registers of deeds may assist the clerk in such distribution. The commissioner" and inserting in place thereof the following words:- director of housing and community development and registers of deeds may assist the clerk in such distribution. Said director.

SECTION 253. Section 59 of said chapter 40, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 254. Said section 59 of said chapter 40, as so appearing, is hereby further amended by striking out, in line 11, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 255. Section 5 of chapter 40A of the General Laws, as so appearing, is hereby amended by striking out, in lines 30 and 32, the words "community affairs" and inserting in place thereof, in each instance, the following words:- housing and community development.

SECTION 256. Section 9 of chapter 40B of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "executive director of the Massachusetts office of business development, hereinafter in this section and sections ten to nineteen, inclusive, called the executive director," and inserting in place thereof the following words:- director of economic development.

SECTION 257. Section 10 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 2, 4 and 10, the words "executive director" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 258. Section 11 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 28, 45 and 48, the words "executive director" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 259. Section 13 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 6 and 8, the words "executive director" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 260. Section 22 of said chapter 40B, as so appearing, is hereby amended by striking out, in line 5, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 261. Section 23 of said chapter 40B, as so appearing, is hereby amended by striking out, in line 2, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 262. Section 24 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 17 to 19, inclusive, the words "executive director of the Massachusetts office of business development, the secretary of communities and" and inserting in place thereof the following words:- director of economic development, the director of housing and community.

SECTION 263. Section 3 of chapter 40C of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words "executive director of the Massachusetts office of business development, the secretary of communities and" and inserting in place thereof the following words:- director of economic development, the director of housing and community.

SECTION 264. Section 12 of chapter 40D of the General Laws, as so appearing, is hereby amended by striking out, in lines 71 and 72, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 265. Said section 12 of said chapter 40D, as so appearing, is hereby further amended by striking out, in line 81, the words "the secretary" and inserting in place thereof the following words:- said director.

SECTION 266. Section 2 of chapter 40E of the General Laws, as so appearing, is hereby amended by striking out, in line 25, the word "industry" and inserting in place thereof the following words:- workforce development.

SECTION 267. Said section 2 of said chapter 40E, as so appearing, is hereby further amended by striking out, in line 27, the word "department" and inserting in place thereof the following word:- division.

SECTION 268. Section 8 of said chapter 40E, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "executive director of the Massachusetts office of business development" and inserting in place thereof the following words:- director of economic development.

SECTION 269. Section 2 of chapter 40G of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "executive office of economic affairs but shall not be subject to the supervision or control of said office" and inserting in place thereof the following words:- department of economic development but shall not be subject to the supervision or control of said department.

SECTION 270. Said section 2 of said chapter 40G, as so appearing, is hereby further amended by striking out, in line 12, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 271. Section 3 of chapter 40J of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "executive office of economic affairs but shall not be subject to the supervision or control of said office" and inserting in place thereof the following words:- department of economic development but shall not be subject to the supervision or control of said department.

SECTION 272. Said section 3 of said chapter 40J, as so appearing, is hereby further amended by striking out, in lines 12 and 13, and in lines 51 and 52, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 273. Section 12 of said chapter 40J, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "Executive Office of Economic Affairs but shall not be subject to the supervision or control of said office" and inserting in place thereof the following words:- department of economic development but shall not be subject to the supervision or control of said department.

SECTION 274. Said section 12 of said chapter 40J, as so appearing, is hereby further amended by striking out, in line 27, the words "Secretary of Economic Affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 275. Section 3 of chapter 40 O of the General Laws, inserted by chapter 173 of the acts of 1994, is hereby amended by striking out, in lines 21 and 22, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 276. Section 71 of chapter 41 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 5, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 277. Section 81C of said chapter 41, as so appearing, is hereby amended by striking out, in lines 6 and 7, and in line 12, the words "division of community services of the department of community affairs" and inserting in place thereof the following words:- department of housing and community development.

Chap. 161

SECTION 278. Section 81D of said chapter 41, as so appearing, is hereby amended by striking out, in lines 55 and 56, the words "division of municipal development, office of local and regional planning of the executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 279. Section 81E of said chapter 41, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "division of community services of the department of community affairs" and inserting in place thereof the following words:- department of housing and community development.

SECTION 280. Section 111 of said chapter 41, as so appearing, is hereby amended by striking out, in line 16, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 281. Section 111B of said chapter 41, as so appearing, is hereby amended by striking out, in line 8, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 282. Section 6 of chapter 43B of the General Laws, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "commissioner of community affairs of such affirmative vote and the commissioner" and inserting in place thereof the following words:- director of housing and community development of such affirmative vote and said director.

SECTION 283. Section 9 of said chapter 43B, as so appearing, is hereby amended by striking out, in lines 11 and 12, 18 and 28, the words "community affairs" and inserting in place thereof, in each instance, the following words:- housing and community development.

SECTION 284. Section 10 of said chapter 43B, as so appearing, is hereby amended by striking out, in lines 57 and 63, the words "community affairs", each time they appear, and inserting in place thereof, in each instance, the following words:- housing and community development.

SECTION 285. Section 12 of said chapter 43B, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 286. Section 16 of said chapter 43B, as so appearing, is hereby amended by striking out, in line 13, the words "community affairs", and inserting in place thereof the following words:- housing and community development.

SECTION 287. Section 12 of chapter 43C of the General Laws, as so appearing, is hereby amended by striking out, in lines 23 and 24, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 288. Section 8 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out, in lines 146 and 147, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

Chap. 161

SECTION 289. Section 5I of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "commissioner of the department" and inserting in place thereof the following words:- deputy director of the division.

SECTION 290. Section 11 of chapter 61A of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 291. Section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in lines 100 and 101, the words "commissioner of the department of labor and industries" and inserting in place thereof the following words:- director of labor and workforce development.

SECTION 292. Section 21 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out, in lines 45 and 86, the words "commissioner of the department" and inserting in place thereof, in each instance, the following words:- deputy director of the division.

SECTION 293. Said section 21 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 89, the word "department" and inserting in place thereof the following word:- division.

SECTION 294. Said section 21 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 96, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 295. Said section 21 of said chapter 62C, as so appearing, is hereby further amended by striking out, in line 99, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 296. Section 1 of chapter 62D of the General Laws is hereby amended by striking out the definition of "Debtor", as amended by section 5 of chapter 47 of the acts of 1997, and inserting in place thereof the following definition:-

"Debtor", any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the division of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 297. Section 13 of said chapter 62D, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 7, the word "department" and inserting in place thereof the following word:- division.

SECTION 298. Section 3 of chapter 62E of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 299. Section 12 of said chapter 62E, as so appearing, is hereby amended by striking out, in line 11, the word "department" and inserting in place thereof the following word:- division.

SECTION 300. Section 31C of chapter 63 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 97, the following words:- health and.

SECTION 301. Said section 31C of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 108 and 109, the words "secretary of economic affairs or the secretary of" and inserting in place thereof the following words:- director of labor and workforce development or the secretary of health and.

SECTION 302. Said section 31C of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 120 and 121, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 303. Said section 31C of said chapter 63, as so appearing, is hereby further amended by striking out, in lines 138 and 139, the words "secretary of economic affairs and certified by such secretary as one which had the prior approval of such secretary" and inserting in place thereof the following words:- director of labor and workforce development and certified by said director as one which had the prior approval of said director.

SECTION 304. Section 28 of chapter 64C of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the words "seventeen A of chapter one hundred eighteen F" and inserting in place thereof the following words:- 24F of chapter 111.

SECTION 305. Section 17A of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words "one hundred and eighteen F" and inserting in place thereof the following figure:- 118G.

SECTION 306. Section 3 of chapter 66A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 307. The first paragraph of section 5A of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out the last two sentences and inserting in place thereof the following two sentences:- The school committee shall pay the day program tuition rate as established by the operational services division within the executive office of administration and finance but in no case shall the school committee pay less than 40 per cent of the total cost of the residential program established by said division. The commonwealth shall pay the difference between the residential program rate established by

Chap. 161

said division and the day program rate but in no case shall it be required to pay more than 60 per cent of the total cost of the residential program.

SECTION 308. Section 12B of said chapter 71B, as so appearing, is hereby amended by striking out, in line 11, the words "executive office of economic affairs" and inserting in place thereof the following words:- department of labor and workforce development.

SECTION 309. Section 12C of said chapter 71B, as so appearing, is hereby amended by inserting after the word "of", in lines 47 and 89, the following words:- health and.

SECTION 310. Said section 12C of said chapter 71B, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Said committee shall provide the person and his parent or guardian with a written copy of an approved transitional plan developed for such person. If the plan calls for the provision of services by an agency in the executive office of health and human services or in the department of labor and workforce development, the secretary and director shall also be provided with a copy of the plan. The secretary and director shall each review the portion of such plan which calls for the provision of services by an agency within his executive office or department and may, after consultation with such agency and written notification to such person or his parent or guardian, make such modifications to such portion of such plan as are necessary or appropriate. Any plan which has not been so modified by said secretary or director within 60 days of its submission to said secretary or director shall be deemed to be approved in the form submitted.

SECTION 311. Section 36C of chapter 75 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words ", the secretary of education".

SECTION 312. Section 2 of chapter 78A of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "Massachusetts department of employment training and the Massachusetts" and inserting in place thereof the following words:- division of employment and training and the.

SECTION 313. Section 1 of chapter 79A of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 314. Section 7C of chapter 81 of the General Laws, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words "commerce and" and inserting in place thereof the following word:- economic.

SECTION 315. Section 7N¼ of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 258, the word "executive".

SECTION 316. Section 7N½ of said chapter 90, as so appearing, is hereby amended by striking out, in lines 223, 229, 230, 290 and 301, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 317. Section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the word "of", in line 224, the third time it appears, the following words:- health and.

Chap. 161

SECTION 318. Section 32E½ of said chapter 90, as so appearing, is hereby amended by striking out, in line 97, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 319. Section 8 of chapter 90B of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 292, the following words:- health and.

SECTION 320. Section 20C of chapter 90D of the General Laws, as so appearing, is hereby amended by striking out, in line 25, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 321. Section 3 of chapter 90H of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "secretary of the executive office of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 322. Section 4 of chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "department of personnel administration. The corporation shall set, in consultation with said department" and inserting in place thereof the following words:- human resources division within the executive office for administration and finance. The corporation shall set, in consultation with said division.

SECTION 323. Section 21A of chapter 93 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 324. Section 75 of said chapter 93, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "secretary of the executive office of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 325. Section 105 of said chapter 93, as so appearing, is hereby amended by striking out, in lines 53 and 54, the words "executive office of consumer affairs" and inserting in place thereof the following words:- office of consumer affairs and business regulation.

SECTION 326. Section 9F of chapter 94 of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 327. Section 85 of said chapter 94, as so appearing, is hereby amended by striking out, in line 5, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 328. Section 86 of said chapter 94, as so appearing, is hereby amended by striking out, in line 6, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 329. Section 99A of said chapter 94, as so appearing, is hereby amended by striking out, in line 27, the words "director of standards in the executive office of consumer affairs" and inserting in place thereof the following words:- deputy director of standards in the office of consumer affairs and business regulation.

SECTION 330. Section 295A of said chapter 94, as so appearing, is hereby amended by striking out paragraphs (3) to (5), inclusive, and inserting in place thereof the following three paragraphs:-

(3) The word "department" shall mean the department of labor and workforce development.

(4) The word "division" shall mean the division of standards in the office of consumer affairs and business regulation.

(5) The term "deputy director" shall mean the deputy director of standards in the office of consumer affairs and business regulation.

SECTION 331. Section 303G of said chapter 94, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "executive office of consumer affairs" and inserting in place thereof the following words:- office of consumer affairs and business regulation.

SECTION 332. Section 314 of said chapter 94, as so appearing, is hereby amended by striking out the definitions of "Director" and "Secretary" and inserting in place thereof the following two definitions:-

"Deputy director", the deputy director of standards;

"Director", the director of consumer affairs and business regulation.

SECTION 333. Section 315 of said chapter 94, as so appearing, is hereby amended by striking out, in line 2, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 334. Section 316 of said chapter 94, as so appearing, is hereby amended by striking out, in lines 1, 5 and 14, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 335. Section 317 of said chapter 94, as so appearing, is hereby amended by striking out, in lines 1, 7, 11, 19, 20, 23 and 24, 25, 28 and 29, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 336. Said section 317 of said chapter 94, as so appearing, is hereby further amended by striking out, in lines 14 and 20, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 337. Section 1 of chapter 98 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Director".

SECTION 338. Said section 1 of said chapter 98, as so appearing, is hereby further amended by inserting after the definition of "Deputy" the following definition:-

"Deputy director", deputy director of standards in the office of consumer affairs and business regulation.

SECTION 339. Section 3 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 2 and 28, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 340. Section 10 of said chapter 98, as so appearing, is hereby amended by striking out, in line 4, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 341. Section 11 of said chapter 98, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 342. Section 12 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1 and 11, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 343. Section 13 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1, 4 and 6, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 344. Section 14 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 4 and 8, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 345. Section 14A of said chapter 98, as so appearing, is hereby amended by striking out, in lines 8, 11 and 15, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 346. Section 15 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 13 and 16, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 347. Said section 15 of said chapter 98, as so appearing, is hereby further amended by striking out, in line 16, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 348. Section 18 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 6, 9 and 13, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 349. Section 19 of said chapter 98, as so appearing, is hereby amended by striking out, in line 10, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 350. Section 20 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 9 and 11, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 351. Section 22 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 7, 8, 11 and 13, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 352. Section 23 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1 and 6, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 353. Section 24 of said chapter 98, as so appearing, is hereby amended by striking out, in line 5, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 354. Section 28A of said chapter 98, as so appearing, is hereby amended by striking out, in lines 5, 10 and 11, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 355. Section 29 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1, 36 and 50, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 356. Said section 29 of said chapter 98, as so appearing, is hereby further amended by striking out, in line 44, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 357. Section 31 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1, 2 and 3, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 358. Section 32 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 2, 8 and 13, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 359. Section 33 of said chapter 98, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 360. Section 33A of said chapter 98, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 361. Section 37 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 2 and 5, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 362. Section 38 of said chapter 98, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 363. Section 41 of said chapter 98, as so appearing, is hereby amended by striking out, in line 10, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 364. Section 44 of said chapter 98, as so appearing, is hereby amended by striking out, in line 4, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 365. Section 45 of said chapter 98, as so appearing, is hereby amended by striking out, in line 10, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 366. Section 46 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 1, 10, 14 and 16, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 367. Section 46A of said chapter 98, as so appearing, is hereby amended by striking out, in lines 5, 6, 10, 11 and 13, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 368. Section 47 of said chapter 98, as so appearing, is hereby amended by striking out, in lines 8, 10 and 15, the word "director", each time it appears, and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 369. Section 56D of said chapter 98, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 370. Said chapter 98 is hereby further amended by striking out section 57, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 57. The director of consumer affairs and business regulation shall make an annual report of the acts of the deputy director.

SECTION 371. Said chapter 98 is hereby further amended by striking out the caption preceding section 57 and inserting in place thereof the following caption:-

**ANNUAL REPORT OF DIRECTOR OF CONSUMER AFFAIRS AND BUSINESS
REGULATION.**

SECTION 372. Section 1 of chapter 99 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "director of standards and necessities of life" and inserting in place thereof the following words:- deputy director of standards.

SECTION 373. Section 3 of said chapter 99, as so appearing, is hereby amended by striking out, in line 1, the words "director of standards" and inserting in place thereof the following words:- deputy director of standards.

SECTION 374. Section 4 of said chapter 99, as so appearing, is hereby amended by striking out, in line 1, the words "director of standards" and inserting in place thereof the following words:- deputy director of standards.

SECTION 375. Section 1 of chapter 100 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Director" and inserting in place thereof the following definition:-

"Deputy director", the deputy director of standards in the office of consumer affairs and business regulation.

SECTION 376. Section 3 of said chapter 100, as so appearing, is hereby amended by striking out, in lines 2, 6, 9, 19, 20, 29, 32, 34, 39, 43, 44, 47, 49 and 50, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 377. Said section 3 of said chapter 100, as so appearing, is hereby further amended by striking out, in lines 40 and 46, the word "director's" and inserting in place thereof the following words:- deputy director's.

SECTION 378. Section 3A of said chapter 100, as so appearing, is hereby amended by striking out, in lines 3, 8 and 10, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 379. Section 4 of said chapter 100, as so appearing, is hereby amended by striking out, in lines 3, 5 and 12, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

Chap. 161

SECTION 380. Section 5 of said chapter 100, as so appearing, is hereby amended by striking out, in lines 1 and 3, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 381. Section 6 of said chapter 100, as so appearing, is hereby amended by striking out, in lines 2, 6, 12 and 14, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 382. Section 7 of said chapter 100, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 383. Section 9 of said chapter 100, as so appearing, is hereby amended by striking out, in line 4, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 384. Section 1 of chapter 100A of the General Laws, as so appearing, is hereby amended by striking out the definition of "Director" and inserting in place thereof the following definition:-

"Deputy director", the deputy director of standards in the office of consumer affairs and business regulation.

SECTION 385. Section 2 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 4, 8, 17, 18, 28, 33, 34, 41, 46, 49, 51 and 52, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 386. Said section 2 of said chapter 100A, as so appearing, is hereby further amended by striking out, in lines 43 and 48, the word "director's" and inserting in place thereof, in each instance, the following words:- deputy director's.

SECTION 387. Section 2A of said chapter 100A, as so appearing, is hereby amended by striking out, in line 4, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 388. Section 3 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 3, 5 and 26, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 389. Section 4 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 1 and 4, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 390. Section 5 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 2, 7, 13 and 15, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 391. Section 6 of said chapter 100A, as so appearing, is hereby amended by striking out, in line 1, the word "director", and inserting in place thereof the following words:- deputy director.

SECTION 392. Section 8 of said chapter 100A, as so appearing, is hereby amended by striking out, in line 4, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 393. Section 10 of said chapter 100A, as so appearing, is hereby amended by striking out, in lines 4, 8, 9, 14, 15 and 20, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 394. Section 1 of chapter 101 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Director" and inserting in place thereof the following definition:-

"Deputy director", the deputy director of standards in the office of consumer affairs and business regulation.

SECTION 395. Section 3 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 3, 6, 7, 8, 16 and 18, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 396. Section 4 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 1 and 3, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 397. Section 6A of said chapter 101, as so appearing, is hereby amended by striking out, in lines 3, 4, 11, 17, 20 and 22, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 398. Said section 6A of said chapter 101, as so appearing, is hereby further amended by striking out, in lines 12 and 19, the word "director's" and inserting in place thereof, in each instance, the following words:- deputy director's.

SECTION 399. Section 7 of said chapter 101, as so appearing, is hereby amended by striking out, in line 6, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 400. Section 11 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 2 and 11, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 401. Section 12 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 1, 6, 7, 15, 19, 24 and 30, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 402. Section 22 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 1, 5, 6, 10, 16, 26, 30 and 31, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 403. Section 24 of said chapter 101, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 404. Section 26 of said chapter 101, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 405. Section 27 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 2 and 7, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 406. Section 30 of said chapter 101, as so appearing, is hereby amended by striking out, in lines 1, 3, 4 and 13, the word "director" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 407. Section 32 of said chapter 101, as so appearing, is hereby amended by striking out, in line 1, the word "director" and inserting in place thereof the following words:- deputy director.

SECTION 408. Section 4H of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 409. Section 5N of said chapter 111, as so appearing, is hereby amended by striking out, in lines 37 and 40, the word "industries", each time it appears, and inserting in place thereof, in each instance, the following words:- workforce development.

SECTION 410. Section 20 of said chapter 111, as so appearing, is hereby amended by inserting after the word "of", in line 9, the second time it appears, the following words:- health and.

SECTION 411. Section 25C of said chapter 111, as so appearing, is hereby amended by striking out, in line 20, and in lines 118 and 119, the words "rate setting commission" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 412. Section 51 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 26 to 29, inclusive, the words "department of medical security that such applicant or such hospital owes an outstanding obligation to the uncompensated care pool pursuant to section fifteen of chapter one hundred and eighteen F" and inserting in place thereof the following words:- division of health care policy and finance that such applicant or such hospital owes an outstanding obligation to the Uncompensated Care Trust Fund pursuant to section 18 of chapter 118G.

SECTION 413. Said section 51 of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 37 and 47, the words "rate setting commission" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 414. Section 62M of said chapter 111, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "rate setting commission established under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 415. Section 67C of said chapter 111, as so appearing, is hereby amended by striking out, in line 8, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 416. Section 69H of said chapter 111, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "rate setting commission established under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 417. Section 72N of said chapter 111, as so appearing, is hereby amended by striking out, in line 34, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 418. Section 72P of said chapter 111, as so appearing, is hereby amended by striking out, in lines 20 and 21, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 419. Section 72Q of said chapter 111, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 420. Section 72Y of said chapter 111, as so appearing, is hereby amended by striking out, in line 41, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 421. Section 78 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words "the rate or rates established by the rate setting commission under chapter six A" and inserting in place thereof the following words:- , the rates established by the division of health care finance and policy.

SECTION 422. Section 78A of said chapter 111, as so appearing, is hereby amended by striking out, in line 14, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 423. Section 79 of said chapter 111, as so appearing, is hereby amended by striking out, in line 9, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 424. The first paragraph of section 80 of said chapter 111, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:- Each city and town shall pay to the commonwealth its share of the cost of providing general health supplies, care, services and accommodations for any tuberculosis patient resident in such city or town hospitalized under section 78 or section 79 a sum equal to one-half the reasonable cost as established by the division of health care finance and policy. If a patient is able to pay or if a third party payor is responsible, the department shall collect from the patient or the payor such rates as are established by said division.

SECTION 425. Said section 80 of said chapter 111, as so appearing, is hereby further amended by striking out, in line 34, the word "division" and inserting in place thereof the following words:- said division of sanatoria and tuberculosis.

SECTION 426. Section 82 of said chapter 111, as so appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following sentence:- The rates to be charged for all general health supplies, care, services and accommodations shall be established by the division of health care finance and policy; provided, however, that such policy shall be approved by said division.

SECTION 427. Section 88 of said chapter 111, as so appearing, is hereby amended by striking out, in line 16, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 428. Section 116A of said chapter 111, as so appearing, is hereby amended by striking out, in line 2, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 429. Section 142M of said chapter 111, as so appearing, is hereby amended by striking out, in line 186, the words "executive office of consumer affairs" and inserting in place thereof the following words:- office of consumer affairs and business regulation.

SECTION 430. Section 192A of said chapter 111, as so appearing, is hereby amended by striking out, in line 5, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 431. Section 197 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 119 and 205, the word "industries" and inserting in place thereof, in each instance, the following words:- workforce development.

SECTION 432. Subsection (b) of section 197B of said chapter 111, as so appearing, is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:-

(3) The director of labor and workforce development, jointly with the director, shall set a date after which only licensed deleaders may conduct removal and covering adequate to comply with section 197 and to qualify for tax credits under paragraph (e) of section 6 of chapter 62 but in no event shall the date be later than July 1, 1990. Said director of labor and workforce development, jointly with the director, shall also set out the conditions, if any, under which unlicensed deleaders may conduct such removal and covering during this transition period.

SECTION 433. Said section 197B of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 75 and 76, the word "industries" and inserting in place thereof, in each instance, the following words:- workforce development.

SECTION 434. Said section 197B of said chapter 111, as so appearing, is hereby further amended by striking out subsection (e) and inserting in place thereof the following subsection:-

(e) The director and the director of labor and workforce development shall charge fees for licensure and certification in an amount determined annually by the commissioner of administration under the provisions of section 3B of chapter 7.

SECTION 435. Section 197E of said chapter 111, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

SECTION 436. Said section 197E of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 5, 13 and 27, the words "secretary of the executive office of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 437. Said section 197E of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 6 and 14, the word "director" and inserting in place thereof, in each instance, the following words:- lead poisoning control director.

Chap. 161

SECTION 438. Said section 197E of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 30 and 33, the word "secretary" and inserting in place thereof, in each instance, the following words:- director of housing and community development.

SECTION 439. Section 3 of chapter 111E of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 27, the following words:- health and.

SECTION 440. Section 12D of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words "secretary of the executive office of consumer affairs of such noncompliance. Said secretary" and inserting in place thereof the following words:- director of consumer affairs and business regulation of such noncompliance. Said director.

SECTION 441. Section 61 of said chapter 112, as so appearing, is hereby amended by striking out, in line 3, the words "of the department of civil service and registration" and inserting in place thereof the following words:- in the office of consumer affairs and business regulation.

SECTION 442. Said section 61 of said chapter 112, as so appearing, is hereby further amended by striking out, in lines 40 and 51, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 443. Section 175 of said chapter 112, as so appearing, is hereby amended by striking out, in line 48, the words "secretary of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 444. Said section 175 of said chapter 112, as so appearing, is hereby further amended by striking out, in line 53, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 445. Section 2 of chapter 117A of the General Laws, as so appearing, is hereby amended by striking out, in lines 7 and 8, the word "department" and inserting in place thereof the following word:- division.

SECTION 446. Section 3 of chapter 118 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the word "department" and inserting in place thereof the following word:- division.

SECTION 447. Section 12 of chapter 118E of the General Laws, as so appearing, is hereby amended by striking out, in line 12, the words "rate setting commission" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 448. Section 14 of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 4 and 5, and in line 66, the words "rate setting commission" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 449. Section 51D of chapter 119 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 49, the following words:- health and.

SECTION 450. Section 11 of chapter 119A of the General Laws, as so appearing, is hereby amended by striking out, in line 11, the words "budget bureau" and inserting in place thereof the following words:- fiscal affairs division within the executive office for administration and finance.

SECTION 451. Section 1 of chapter 121A of the General Laws, as so appearing, is hereby amended by striking out, in line 51, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 452. Section 9 of said chapter 121A, as so appearing, is hereby amended by striking out, in line 31, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 453. Section 18C of said chapter 121A, as so appearing, is hereby amended by striking out, in lines 17, 24 and 43, and in lines 44 and 45, the words "community affairs" and inserting in place thereof, in each instance, the following words:- housing and community development.

SECTION 454. Section 1 of chapter 121B of the General Laws, as so appearing, is hereby amended by striking out, in line 95, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 455. Section 12 of said chapter 121B, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 456. Section 26 of said chapter 121B, as so appearing, is hereby amended by striking out, in lines 213 and 214, 216 and 217, 219, 222 and 223, 227 and 230, the words "executive office of communities and" and inserting in place thereof, in each instance, the following words:- department of housing and community.

SECTION 457. Section 34B of said chapter 121B, as so appearing, is hereby amended by striking out, in lines 13 to 21, inclusive, the words "secretary or an assistant secretary of the executive office of communities and development. It shall be sufficient if the signature of said secretary or assistant secretary upon such note is an engraved, printed or stamped facsimile signature, provided that he has, by a writing bearing his written signature and filed in the office of the secretary, authorized his facsimile signature to be placed thereon. The facsimile signature of said secretary or assistant secretary so engraved, printed or stamped thereon, shall have the same validity and effect as his written signature. If any such secretary or assistant secretary" and inserting in place thereof the following words:- director or an associate director of housing and community development. It shall be sufficient if the signature of said director or associate director upon such note is an engraved, printed or stamped facsimile signature provided that he has, by a writing bearing his written signature and filed in the office of said director, authorized his facsimile signature to be placed thereon. The facsimile signature of said director or associate director so engraved, printed or stamped thereon shall have the same validity and effect as his written signature. If any said director or associate director.

Chap. 161

SECTION 458. Section 42 of said chapter 121B, as so appearing, is hereby amended by striking out, in line 4, the words "of community affairs".

SECTION 459. Section 43A of said chapter 121B, as so appearing, is hereby amended by striking out, in line 3, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 460. Section 59 of said chapter 121B, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "secretary of communities and development or such assistant secretary" and inserting in place thereof the following words:- director of housing and community development or such associate director.

SECTION 461. Section 1 of chapter 121C of the General Laws, is hereby amended by inserting after paragraph (2) the following paragraph:-

(2A) "Director", the director of housing and community development.

SECTION 462. Said section 1 of said chapter 121C, as so appearing, is hereby further amended by inserting after the word "labor", in line 70, the following words:- and workforce development.

SECTION 463. Said section 1 of said chapter 121C, as so appearing, is hereby further amended by striking out, in lines 71 and 76, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 464. Said section 1 of said chapter 121C, as so appearing, is hereby further amended by striking out paragraph (9).

SECTION 465. Section 3 of said chapter 121C, as so appearing, is hereby amended by striking out, in line 30, the words "community affairs" and inserting in place thereof the following words:- housing and community development.

SECTION 466. Section 4 of said chapter 121C, as so appearing, is hereby amended by striking out, in line 9, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 467. Section 5 of said chapter 121C, as so appearing, is hereby amended by striking out, in lines 61 and 75, the word "secretary", each time it appears, and inserting in place thereof, in each instance, the following word:- director.

SECTION 468. Section 6 of said chapter 121C, as so appearing, is hereby amended by striking out, in line 27, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 469. Said section 6 of said chapter 121C, as so appearing, is hereby further amended by striking out, in lines 42 and 43, the words "community affairs of the commonwealth" and inserting in place thereof the following words:- housing and community development.

SECTION 470. Section 10 of said chapter 121C, as so appearing, is hereby amended by striking out, in line 5, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 471. Section 14 of chapter 122 of the General Laws, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health

care finance and policy.

SECTION 472. Section 32 of chapter 123 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 473. Section 33 of said chapter 123, as so appearing, is hereby amended by striking out, in line 20, and in lines 25 and 26, the words "rate setting commission under chapter six A" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 474. Section 16 of chapter 123B of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "rate setting commission under chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 475. Section 1 of chapter 124 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 58, the following words:- health and.

SECTION 476. Section 11B of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 477. Section 7 of chapter 136 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 478. Section 13 of said chapter 136, as so appearing, is hereby amended by striking out, in line 16, the words "department of labor and industries" and inserting in place thereof the following words:- attorney general.

SECTION 479. Section 15 of said chapter 136, as so appearing, is hereby amended by striking out, in line 25, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 480. Section 32B of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 16, and in lines 18 and 19, the words "secretary of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 481. Section 32L of said chapter 140, as so appearing, is hereby amended by striking out, in lines 20, 41 and 42, 47 and 96, the words "secretary of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 482. Said section 32L of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 52, 53 and 56, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 483. Said section 32L of said chapter 140, as so appearing, is hereby further amended by striking out, in line 96, the word "secretary's" and inserting in place thereof the following word:- director's.

Chap. 161

SECTION 484. Section 32P of said chapter 140, as so appearing, is hereby amended by striking out, in lines 25 and 26, the words "secretary of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 485. Said section 32P of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 27 and 28, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 486. Section 32R of said chapter 140, as so appearing, is hereby amended by striking out, in lines 6, 15 and 96, the words "secretary of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 487. Section 46Q of said chapter 140, as so appearing, is hereby amended by striking out, in line 16, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 488. Section 1 of chapter 142A of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Actual loss" the following definition:- "Administrator", the chief administrator of the board of building regulations and standards, an agency within the executive office of public safety, established by section 18 of chapter 6A.

SECTION 489. Said section 1 of said chapter 142A, as so appearing, is hereby further amended by inserting after the definition of "Contractor" the following definition:- "Director", the director of consumer affairs and business regulation.

SECTION 490. Said section 1 of said chapter 142A, as so appearing, is hereby further amended by striking out the definition of "Director".

SECTION 491. Said section 1 of said chapter 142A, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the words "secretary of the executive office of consumer affairs" and inserting in place thereof the following words:- director of consumer affairs and business regulation.

SECTION 492. Said section 1 of said chapter 142A, as so appearing, is hereby further amended by striking out the definition of "Secretary".

SECTION 493. Section 2 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 32 and 33, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 494. Said section 2 of said chapter 142A, as so appearing, is hereby further amended by striking out, in lines 71 and 74, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 495. Section 3 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 7, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 496. Section 4 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 2, 7 and 8, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 497. Section 5 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 2, the word "executive".

Chap. 161

SECTION 498. Said section 5 of said chapter 142A, as so appearing, is hereby further amended by striking out, in lines 13, 15 and 18, the word "secretary" and inserting in place thereof, in each instance, the following word:- director.

SECTION 499. Section 7 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 27, the word "director" and inserting in place thereof the following word:- administrator.

SECTION 500. Section 9 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 5, the word "director" and inserting in place thereof the following word:- administrator.

SECTION 501. Section 10 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 3, the word "director" and inserting in place thereof the following word:- administrator.

SECTION 502. Section 11 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 10, 13, 26, 31, 35, 37 and 39, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 503. Section 12 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 3 and 21, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 504. Section 13 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 11, 13, 17 and 20, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 505. Section 15 of said chapter 142A, as so appearing, is hereby amended by striking out, in line 2, the word "director" and inserting in place thereof the following word:- administrator.

SECTION 506. Section 16 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 507. Section 17 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 4, 35 and 45, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 508. Section 18 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 1, 2, 4, 6 and 12, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 509. Section 20 of said chapter 142A, as so appearing, is hereby amended by striking out, in lines 1 and 10, the word "director" and inserting in place thereof, in each instance, the following word:- administrator.

SECTION 510. Section 11 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the word "department", the first time it appears, and inserting in place thereof the following word:- division.

SECTION 511. Section 44M of said chapter 149, as so appearing, is hereby amended by striking out, in lines 27 and 28, 32, 33, 37, 41 and 43 and 44, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following

Chap. 161

words:- director of the office of consumer affairs and business regulation.

SECTION 512. Section 78 of said chapter 149, as so appearing, is hereby amended by striking out, in line 14, the word "department", the second time it appears, and inserting in place thereof the following word:- division.

SECTION 513. Section 108 of said chapter 149, as so appearing, is hereby amended by striking out, in line 19, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 514. Section 142A of said chapter 149, as so appearing, is hereby amended by striking out, in line 7, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 515. Said section 142A of said chapter 149, as so appearing, is hereby further amended by striking out, in line 12, the words "commissioners of the department of labor and industries and of the department" and inserting in place thereof the following words:- director of labor and workforce development and the commissioner.

SECTION 516. Section 142B of said chapter 149, as so appearing, is hereby amended by striking out, in line 5, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 517. Said section 142B of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words "commissioners of the department of labor and industries and of the department" and inserting in place thereof the following words:- director of labor and workforce development and the commissioner.

SECTION 518. Section 142C of said chapter 149, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "commissioners of the department of labor and industries and of the department" and inserting in place thereof the following words:- director of labor and workforce development and the commissioner.

SECTION 519. Section 142D of said chapter 149, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "commissioners of the department of labor and industries and of the department" and inserting in place thereof the following words:- director of labor and workforce development and the commissioner.

SECTION 520. Said section 142D of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 8 and 12, the word "the commissioners" and inserting in place thereof, in each instance, the following words:- said director and commissioner.

SECTION 521. Section 142E of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 522. Said section 142E of said chapter 149, as so appearing, is hereby further amended by striking out, in lines 5 and 6, the words "commissioners of the departments of labor and industries and" and inserting in place thereof the following words:- director of labor and workforce development and the commissioner.

SECTION 523. Section 142F of said chapter 149, as so appearing, is hereby amended by striking out, in line 8, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 524. Section 157A of said chapter 149, as so appearing, is hereby amended by striking out, in line 12, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 525. Section 168A of said chapter 149, as so appearing, is hereby amended by striking out, in lines 13 and 14, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 526. Section 3A of chapter 150A of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 527. Section 9 of chapter 151 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 6, the following words:- health and.

SECTION 528. Chapter 151A of the General Laws is hereby amended by striking out section 14G, as so appearing, and inserting in place thereof the following section:-

Section 14G. (a) Beginning on January 1, 1990, each employer, except those employers who employ five or fewer employees, subject to the provisions of sections 14, 14A and 14C, shall pay, in the same manner and at the same times as the deputy director of employment and training prescribes for the contribution required by said section 14, an unemployment health insurance contribution computed by multiplying the wages paid its employees by the unemployment health insurance contribution rate of .12 of 1 per cent.

(b) Such unemployment health insurance contribution shall be paid to the deputy director of employment and training in accordance with the procedures prescribed by said deputy director. The receipts from such contributions shall not be deposited in the State Unemployment Compensation Fund but shall be impressed with a trust and dedicated, through the state treasurer as trustee, to the unemployment health insurance contribution account of the Medical Security Trust Fund, established in subsection (k). Prior to the depositing of the receipts, the deputy director of employment and training may deduct all administrative costs incurred by the division of employment and training as a result of this section, including an amount as determined by the United States Secretary of Labor in accordance with federal cost rules but in no calendar year may such deduction exceed 5 per cent of the amounts collected pursuant to this section.

(c)(1) For the purposes of this section, the term "wages" shall not include that part of remuneration which, after remuneration equal to the unemployment health insurance contribution wage base with respect to employment with such employer has been paid to an individual during the calendar year, is paid to such individual during such year. For the purposes of this paragraph, remuneration shall include remuneration paid to an individual during the calendar year with respect to employment with a transferring employer, as that term is used in subsection (n) of section 14.

Chap. 161

(2) For the purposes of this section, the term "unemployment health insurance contribution wage base" shall equal \$14,000 for the calendar years 1990 to 1992, inclusive. For each subsequent calendar year, the unemployment health insurance contribution wage base shall equal the product of (i) the unemployment health insurance contribution wage base for the then previous calendar year; and (ii) the sum of one and the health insurance inflation rate for the then previous calendar year as reported by the rate review board established pursuant to subsection (f).

(d)(1) The provisions of this section shall not apply to an employer newly subject to this chapter, as defined in paragraphs (2) and (3) of subsection (i) of section 14, until such employer has been an employer for not less than the 12 consecutive months' period specified in paragraph (1) of subsection (b) of said section 14.

(2) During the first calendar year in which this section shall apply to an employer newly subject to this chapter pursuant to paragraph (1), such employer's unemployment health insurance contribution shall be computed by substituting in subsection (a) the words ".04 of 1 per cent" for the words ".12 of 1 per cent".

(3) During the second calendar year in which this section shall apply to an employer newly subject to this chapter pursuant to paragraph (1), such employer's unemployment health insurance contribution shall be computed by substituting in subsection (a) the words ".08 of 1 per cent" for the words ".12 of 1 per cent".

(e) Except where inconsistent with the provisions of this section, the terms and conditions of this chapter which are applicable to the payment and collection of contributions or payments in lieu of contributions shall apply to the same extent to the payment of and the collection of such unemployment health insurance contribution; provided, however, that such contributions shall not be credited to the employer's account or to the solvency account established pursuant to section 14, 14A or 14C.

(f) There shall be a rate review board composed of the commissioner of medical assistance or his designee, the deputy director of employment and training and the commissioner of insurance or his designee. The rate review board shall determine if the unemployment health insurance contribution rate and the unemployment health insurance contribution wage base established in this section shall be adequate to provide for the estimated costs for the subsequent year of unemployment health insurance programs established pursuant to subsection (j) provided by said division of employment and training. If in the opinion of said board the unemployment health insurance contribution wage base or the unemployment health insurance contribution rate as established above would be inadequate to properly fund the unemployment health insurance program, said rate of health insurance inflation or the unemployment health insurance contribution rate shall be appropriately adjusted in order to properly fund said unemployment health insurance program.

On or before November 30 of each year, the deputy director of employment and training shall certify to said board the estimated costs for the subsequent year of health insurance programs provided by the division of employment and training for individuals and

their families who are eligible for the health insurance program established by subsection (j) for individuals receiving unemployment insurance compensation. Such estimated costs shall be exclusive of amounts to be covered by premiums, co-payments, deductibles and co-insurance to be paid by covered individuals and any anticipated appropriations. The rate review board shall further adjust such estimated costs to reflect prudent levels of reserves sufficient to carry out the responsibilities of the division of employment and training for said unemployment health insurance program. If in the opinion of said board the rate of health insurance inflation on the unemployment health insurance contribution wage base as established or calculated above would be inadequate to properly fund said unemployment health insurance program, said rate of health insurance inflation or the unemployment health insurance contribution rate shall be appropriately adjusted in order to properly fund said health insurance programs.

(g) Any employer who fails to file any report or form as required by this section shall pay a penalty equal to 10 per cent of the contribution due under this section; provided, however, that the penalty assessed shall not exceed \$100 nor shall it be less than \$25 for each such failure to file in addition to restitution for any amounts owed to the Medical Security Trust Fund as a result of such failure to make a correct contribution. Any penalties collected pursuant to this section shall be deposited in the Medical Security Trust Fund. Any employer, in accordance with rules and regulations promulgated by the deputy director of employment and training, who relies in good faith on statements by employees relative to their health insurance status shall not be liable for any penalty or restitution for failure to comply with the provisions of this section caused by misstatements of such employees. Any contribution under this section shall be allowable as a business expense.

(h) Any employer notified of a determination of the deputy director of employment and training, that such determination is subject to the provisions of this section, may request a hearing on such determination. The request for hearing shall be filed within ten days after mailing of the notice of the determination. If a hearing is requested, said deputy director shall give the employer a reasonable opportunity for a fair hearing before an impartial hearing officer designated by the deputy director. The conduct of such hearing shall be in accordance with the procedures prescribed by subsection (b) of section 39. Any employer aggrieved by the decision following such hearing may appeal such decision. Such appeal shall be in accordance with the procedures prescribed by sections 40 to 42, inclusive. Unless action is taken under section 40, the decision of said deputy director shall be final on all questions of fact and law.

(i) The division of employment and training shall provide written information to each individual who is eligible for unemployment benefits, including extended benefits under section 30A or extended unemployment compensation benefits under the federal Emergency Unemployment Compensation Act of 1991 or any other federal act, that such individual may be eligible for health insurance coverage pursuant to this section and the provisions of subsection (j). In addition, the division of employment and training shall post in its local offices a clear and conspicuous notice advising individuals of their rights under this section;

provided, however, that such notice shall be in English and Spanish and such other language which said division determines appropriate for the area office in which the notice is posted.

(j) The division of employment and training shall establish and may operate a health insurance program for the benefit of persons who meet both of the following criteria: (1) the person is receiving or is eligible to receive unemployment compensation benefits under this chapter, including extended benefits under the provisions of section 30A or extended unemployment compensation benefits, hereinafter referred to as EUC benefits, under the federal Emergency Unemployment Compensation Act of 1991 or any other federal act; and (2) the gross income of such person and such person's spouse, if any, including any income received from unemployment benefits, extended benefits or EUC benefits as provided in clause (1), is less than or equal to four times the nonfarm poverty guidelines of the United States Office of Management and Budget.

The health insurance program administered by the division of employment and training shall consist of the following options: a buy-in option called the continuation plan under which said division shall subsidize a qualified person's continued enrollment in the health insurance plan to which they belonged at the time of, or prior to, applying for unemployment compensation benefits, including persons whose continued eligibility for such enrollment is based on the federal COBRA law, so-called, and an option called the direct coverage plan which shall consist of a limited plan of health care services and benefits to be administered by said division. To qualify for benefits under this section, said division shall require that applicants maintain continued enrollment in the health insurance plan in which they were enrolled prior to applying for unemployment compensation benefits or as permitted by the federal COBRA law.

Persons so qualified shall be ineligible for enrollment in the direct coverage plan and the division of employment and training shall subsidize enrollees' continued health insurance plan by reimbursing such enrollees for a portion of their premium cost in accordance with the division's benefits schedule. Persons unable to qualify for COBRA benefits, so-called, due to lack of access to prior health insurance coverage through their former employer or their spouse's employer or a hardship determined by said division, shall be eligible for the direct coverage plan pursuant to the eligibility requirements of this section. Said division shall establish a schedule of co-payments and deductibles within the direct coverage plan which shall promote the cost-effective use of services by participants in the program.

The division of employment and training shall establish procedures for the calculation of the gross income of an applicant or the applicant's spouse, if any, for the purposes of determining eligibility under a health insurance plan established under this section. Such procedures shall provide that in determining the income of the applicant or the applicant's spouse, if any, said division shall examine the gross income of the applicant and the applicant's spouse, if any, in the six months prior to application and a projection of the gross income of the applicant and the applicant's spouse, if any, including a calculation of the maximum benefits payable to the applicant and the applicant's spouse, if any, from unemployment benefits, extended benefits or EUC benefits for the six months after application. Such procedures shall also make provisions for the redetermination of eligibility

Chap. 161

for an enrollee or the enrollee's family.

The division of employment and training shall establish grievance procedures under which any decision, action or inaction of said division which directly affects an enrollee or the enrollee's family and is related to the receipt of benefits under this section may be revived. Said division shall establish appeal procedures under which an applicant may appeal a denial of benefits in whole or in part or may appeal a determination of income or under which an enrollee may appeal termination from the program.

For the purposes of this section the term "family members" of the applicant or enrollee shall include the applicant or enrollee, a spouse and any legal dependents.

The division of employment and training shall prepare reports on the status of the program established in this section and shall submit such reports on the first Wednesday in January, April, July and October of each year to the joint committee on health care and the house and senate committees on ways and means. Such reports shall include, but not be limited to, the number of enrollees in the program for the previous quarter, the amount of benefits paid out in the previous quarter and the end of quarter balance in the Medical Security Trust Fund established in subsection (k). The deputy director of employment and training is hereby authorized to delegate, by means of an interagency service agreement, to another state agency the authority to manage and administer the health insurance program established by this subsection.

(k) There is hereby established a Medical Security Trust Fund which shall be administered and expended by the division of employment and training without further appropriation. Said trust fund shall consist of employer unemployment health insurance contributions required by subsection (a) and premiums paid by enrollees. Said fund shall be used exclusively for the payment of premiums for health insurance plans provided to persons receiving unemployment compensation. The deputy director of employment and training shall from time to time requisition from said trust fund such amounts as he deems necessary to meet the current obligations of the division and estimated obligations for a reasonable future period.

SECTION 529. Section 71D of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in lines 10 and 11, the words "secretary of economic affairs" and inserting in place thereof, in each instance, the following words:- director of economic development.

SECTION 530. Said section 71D of said chapter 151A, as so appearing, is hereby further amended by striking out, in lines 2 and 10, the words "secretary of labor" and inserting in place thereof, in each instance, the following words:- director of labor and workforce development.

SECTION 531. Said section 71D of said chapter 151A, as so appearing, is hereby further amended by striking out, in line 8, the word "department" and inserting in place thereof the following word:- division.

SECTION 532. Section 4 of chapter 151B of the General Laws, as so appearing, is hereby amended by striking out, in lines 597 and 598, the words "department of employment

Chap. 161

and training in the executive office of economic affairs" and inserting in place thereof the following words:- division of employment and training.

SECTION 533. Section 1 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words "of the department".

SECTION 534. Said section 1 of said chapter 152, as so appearing, is hereby further amended by striking out, in lines 150, 154, 158 and 159 and 162 and 163, the words "commissioner of the department" and inserting in place thereof, in each instance, the following words:- deputy director of the division.

SECTION 535. Section 6 of said chapter 152, as so appearing, is hereby amended by striking out, in line 14, the word "department" and inserting in place thereof the following word:- division.

SECTION 536. Section 25K of said chapter 152, as so appearing, is hereby amended by striking out, in line 14, the word "department" and inserting in place thereof the following word:- division.

SECTION 537. Section 30I of said chapter 152, as so appearing, is hereby amended by striking out, in line 2 and in lines 7 and 8, the word "department" and inserting in place thereof, in each instance, the following word:- division.

SECTION 538. Section 31 of said chapter 152, as so appearing, is hereby amended by striking out, in lines 12 and 43, the words "commissioner of the department" and inserting in place thereof, in each instance, the following words:- deputy director.

SECTION 539. Section 53A of said chapter 152, as so appearing, is hereby amended by striking out, in line 98, the word "department" and inserting in place thereof the following word:- division.

SECTION 540. Section 64 of said chapter 152, as so appearing, is hereby amended by striking out, in line 6, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 541. Section 65 of said chapter 152, as so appearing, is hereby amended by striking out, in lines 91, 95, 116 and 117, 124 and 205, the words "secretary of labor" and inserting in place thereof, in each instance, the following words:- director of labor and workforce development.

SECTION 542. Said section 65 of said chapter 152, as so appearing, is hereby further amended by striking out, in line 154, the word "department" and inserting in place thereof the following word:- division.

SECTION 543. Section 65J of said chapter 152, as so appearing, is hereby amended by striking out, in line 7, the word "industries" and inserting in place thereof the following words:- workforce development.

SECTION 544. Section 5 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out, in line 117, the words "executive office of communities and" and inserting in place thereof the following words:- department of housing and community.

Chap. 161

SECTION 545. Section 69H of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words "secretary of economic affairs" and inserting in place thereof the following words:- director of economic development.

SECTION 546. Said section 69H of said chapter 164, as so appearing, is hereby further amended by striking out, in line 26, the word "secretary" and inserting in place thereof the following word:- director.

SECTION 547. Section 15E of chapter 166 of the General Laws, as so appearing, is hereby amended by inserting after the word "of", in line 113, the second time it appears, the following words:- health and.

SECTION 548. Section 5B of chapter 175A of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words "rate setting commission pursuant to section thirty-two of chapter six A" and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 549. Section 5 of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out, in lines 34 to 36, inclusive, the words "rate setting commission established under section thirty-two of chapter six A, in this section called the commission" and inserting in place thereof the following words:- division of health care finance and policy, in this section called the division.

SECTION 550. Section 17 of said chapter 176A, as so appearing, is hereby amended by striking out, in line 4, and in lines 9 and 10, the words "rate setting commission" and inserting in place thereof, in each instance, the following words:- division of health care finance and policy.

SECTION 551. Section 32 of chapter 184 of the General Laws, as so appearing, is hereby amended by striking out, in lines 25 and 26, 35 and 36, 56 and 57 and 78 and 79, the words "secretary of the executive office of communities and" and inserting in place thereof, in each instance, the following words:- director of housing and community.

SECTION 552. Section 33 of said chapter 184, as so appearing, is hereby amended by striking out, in line 40, the words "secretary of the executive office of communities and" and inserting in place thereof the following words:- director of housing and community.

SECTION 553. Said section 33 of said chapter 184, as so appearing, is hereby further amended by inserting after the word "secretary", in line 46, the following word:- , director.

SECTION 554. Section 3 of chapter 258C of the General Laws, as so appearing, is hereby amended by striking out, in lines 27 and 28, the words "rate setting commission in accordance with chapter six A," and inserting in place thereof the following words:- division of health care finance and policy.

SECTION 555. Section 29 of chapter 262 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word "department" and inserting in place thereof the following word:- division.

SECTION 556. Section 7 of chapter 268A of the General Laws, as so appearing, is

hereby amended by striking out, in line 49, the words "public welfare or the rate setting commission" and inserting in place thereof the following words:- transitional assistance or the division of health care policy and finance.

SECTION 557. Section 19 of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in line 31, the word "regents" and inserting in place thereof the following word:- board.

SECTION 558. Said section 19 of said chapter 269, as so appearing, is hereby further amended by striking out, in line 40, the word "regents" and inserting in place thereof the following words:- higher education.

SECTION 559. Section 9 of chapter 276A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "commissioner of the department" and inserting in place thereof the following words:- deputy director of the division.

SECTION 560. Chapter 119 of the acts of 1996 is hereby amended by striking out section 4 and inserting in place thereof the following section:-

Section 4. Notwithstanding the provisions of sections 1 and 2, for all registered motor vehicle repair shops with registrations that become renewable within one year after the effective date of this act, the deputy director shall renew one-third of approved applications until June 1 of the first calendar year after renewal and shall charge a registration fee of \$100 therefor, the deputy director shall renew one-third of approved applications until June 1 of the second calendar year after renewal and shall charge a registration fee in the amount of \$200 therefor and the deputy director shall renew one-third of approved applications until June 1 of the third calendar year after renewal and shall charge a registration fee in the amount of \$300.

SECTION 561. Chapter 151 of the acts of 1996 is hereby amended by striking out section 516 and inserting in place thereof the following section:-

Section 516. Notwithstanding the provisions of chapter 490 of the acts of 1980, the department of housing and community development may authorize neighborhood housing services corporations to retain and reloan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program.

SECTION 562. Said chapter 151 is hereby further amended by striking out section 581 and inserting in place thereof the following section:-

Section 581. Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, the department of housing and community development is hereby authorized to conduct annual verifications of household income levels based upon state tax returns for the purpose of administering the state and federal housing subsidy programs funded in items 7004-9005, 7004-9024, 7004-9011, 7004-9013, 7004-9014, 7004-9019, 7004-9020 and 7004-9009; provided, however, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of social security numbers by an applicant or tenant and members of the applicant's or tenant's household for use in verification of income eligibility. Said department is hereby further authorized to consult with the department of revenue, the department of transitional assistance and

Chap. 161

any other state or federal agency which it deems necessary to conduct such income verification; provided, however, that notwithstanding the provisions of any general or special law to the contrary, said state agencies are hereby authorized and directed to consult and cooperate with said department and to furnish any and all information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid. For the purposes of conducting such income verification, the director of housing and community development is hereby authorized to enter into an interagency agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in such federally assisted housing programs and members of the participants' households.

SECTION 563. Said chapter 151 is hereby further amended by striking out section 631 and inserting in place thereof the following section:-

Section 631. The Massachusetts office of business development and the department of housing and community development shall enter into an interagency agreement in order to coordinate their respective economic development activities. The department of housing and community development shall also enter into an interagency service agreement with the executive office of health and human services in order to coordinate the services provided to their common clients.

SECTION 564. Said chapter 151 is hereby further amended by striking out section 637 and inserting in place thereof the following section:-

Section 637. The director of housing and community development and the director of economic development are hereby authorized to carry out an interagency agreement for the expenditure of \$750,000 of previously transferred funds from the Oil Overcharge Trust Fund, so-called, for the one and two person program, so-called, for elders and families whose income is in excess of 150 per cent of the federal poverty level but not more than 175 per cent of said level and for a program of supplemental energy assistance for low income elders and families to be administered in accordance with the Low Income Home Energy Assistance Act of 1981; provided, that said amount may be expended from said fund for the fiscal year ending June 30, 1997 without further appropriation; provided, further, that unexpended funds from an interagency agreement between the director of housing and community development and the director of economic development for the fiscal year ending June 30, 1996 shall be carried forward and retained by the department of housing and community development for said programs for low income elders and families; provided, further, that notwithstanding the provisions of any general or special law to the contrary, funds expended for said one and two person program and for said program of supplemental energy assistance for low income elders and families shall not be subject to federal reimbursement; and provided, further, that funds provided through interagency agreements authorized herein for supplemental energy assistance for low income elders and families shall not constitute an ongoing obligation of the commonwealth.

Approved July 2, 1998.

Chapter 162. AN ACT RELATIVE TO THE APPOINTMENT OF JOSEPH JACKSON, JR. AND THOMAS F. BAMBERRY, JR. TO THE FIRE DEPARTMENT OF THE CITY OF QUINCY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, Joseph Jackson, Jr., so long as he passes the required written and physical examinations for entrance to the fire service, shall have his name certified for original appointment to the fire department of the city of Quincy before all others in the eligible list for such appointment.

SECTION 2. Notwithstanding the provisions of section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, Thomas F. Bamberry, Jr., so long as he passes the required written and physical examinations for entrance to the fire service, shall have his name certified for original appointment to the fire department of the city of Quincy before all others in the eligible list for such appointment.

SECTION 3. This act shall take effect upon its passage.

Approved July 2, 1998.

Chapter 163. AN ACT FURTHER REGULATING BOARD MEETINGS BY BANKS.

Be it enacted, etc., as follows:

SECTION 1. Section 11 of chapter 168 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the third sentence the following two sentences:- Unless the articles of incorporation or the by-laws otherwise provide, members of the board of trustees or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other, and participation by such means shall constitute presence in person at a meeting. Members may transmit any written authorizations that may be required during the meeting by electronic facsimile or other commercially acceptable transmission.

SECTION 2. Paragraph 2 of said section 11 of said chapter 168, as so appearing, is hereby amended by inserting after the word "corporation", in line 23, the following words:- which in the aggregate total in an amount in excess of \$50,000 to any borrower,- and by inserting after the word "loans", in line 37, the following words:- in excess of \$25,000 each.

SECTION 3. Said paragraph 2 of said section 11 of said chapter 168 is hereby further amended by adding the following sentence:- Upon application in writing by any such board of trustees, the commissioner in his discretion may waive or modify the list of transactions to be included in such report.

Chap. 163

SECTION 4. The second paragraph of section 7 of chapter 170 of the General Laws, as so appearing, is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) The time and place for holding the annual meeting of the shareholders and the periodic meeting of the board of directors.

SECTION 5. Said second paragraph of said section 7 of said chapter 170, as so appearing, is hereby further amended by adding the following paragraph:-

The board of directors shall meet at intervals of not more than two months; provided however, that upon application in writing by the corporation, the commissioner may waive or modify this requirement. Unless the articles of incorporation or the by-laws otherwise provide, members of the board of directors or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other, and participation by such means shall constitute presence in person at a meeting. Members may transmit any written authorizations that may be required during the meeting by electronic facsimile or other commercially acceptable transmission.

SECTION 6. Chapter 172 of the General Laws is hereby amended by striking out section 16, as so appearing, and inserting in place thereof the following section:-

Section 16. The board of directors shall meet at intervals of not more than two months; provided however, that upon application in writing by the corporation, the commissioner may waive or modify this requirement. Unless the articles of incorporation or the by-laws otherwise provide, members of the board of trustees or any committee designated thereby may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may simultaneously hear each other, and participation by such means shall constitute presence in person at a meeting. Members may transmit any written authorizations that may be required during the meeting by electronic facsimile or other commercially acceptable transmission. At intervals of not more than two months each, the treasurer or any other officer designated by the board of directors shall submit to a meeting of the board of directors a written report, over his signature, for the period running from the closing date of the last report to a date not more than 18 days prior to the date of the meeting at which the report is submitted. Such report shall be filed with the records of the meeting and shall be retained for a period of six years from the date of the meeting; such report shall cover the following transactions:

- (1) All changes in investments, including a list of the securities purchased or sold.
- (2) All changes in any reserve or contingency account, however designated, and an itemized list of the credits and debits to profit and loss and reserve accounts.
- (3) Lists of the following loans, the date thereof, and the date to which interest has been paid, setting forth the total liabilities of the borrower to the corporations, both secured and unsecured:

Chap. 163

(a) all loans in excess of \$50,000 each, overdue for more than 30 days, other than real estate mortgage loans;

(b) all real estate mortgage loans on which interest is more than six months in arrears;

(c) all real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to such corporations, specifying the amounts of taxes paid and the years for which they were paid;

(d) all real estate mortgage loans concerning which any tax upon the underlying security is more than 12 months overdue; and

(e) all real estate mortgage loans concerning which any tax upon the underlying security has been paid by and not repaid to such corporations, specifying the amounts of taxes so paid and the years for which they were paid.

(4) A list of all loans, secured or unsecured, and discounts of any borrower including both direct and indirect liabilities made during which period which brings the aggregate of the liabilities of such borrower to an amount in excess of \$50,000, with a notation of any line of credit possessed by such borrower.

Upon application in writing by any such corporation the commissioner in his discretion may waive or modify the list of transactions to be included in such report.

SECTION 7. Paragraph B of section 99 of chapter 272 of the General Laws, as so appearing, is hereby amended by adding the following two paragraphs:-

17. The term "financial institution" shall mean a bank, as defined in section 1 of chapter 167, and an investment bank, securities broker, securities dealer, investment adviser, mutual fund, investment company or securities custodian as defined in section 1.165-12(c)(1) of the United States Treasury regulations.

18. The term "corporate and institutional trading partners" shall mean financial institutions and general business entities and corporations which engage in the business of cash and asset management, asset management directed to custody operations, securities trading, and wholesale capital markets including foreign exchange, securities lending, and the purchase, sale or exchange of securities, options, futures, swaps, derivatives, repurchase agreements and other similar financial instruments with such financial institution.

SECTION 8. Subparagraph 1 of paragraph D of said section 99 of said chapter 272, as so appearing, is hereby amended by adding the following clause:-

f. for a financial institution to record telephone communications with its corporate or institutional trading partners in the ordinary course of its business; provided, however, that such financial institution shall establish and maintain a procedure to provide semi-annual written notice to its corporate and institutional trading partners that telephone communications over designated lines will be recorded.

Approved July 3, 1998.

Chapter 164. AN ACT RELATIVE TO THE FINANCING AND OPERATION OF A GOLF COURSE BY THE TOWN OF NATICK.

Be it enacted, etc., as follows:

SECTION 1. The town of Natick is hereby authorized to design, develop, construct and equip a municipal golf course, including a clubhouse and related structures, and other recreational facilities on land owned by and located in the town and on land located in the town of Sherborn acquired by purchase or long term lease for up to and including 99 years. The provisions of section 16 of chapter 30B of the General Laws shall not apply to the purchase or lease of any land by the town of Natick in the town of Sherborn. Said land is located southwest of the Natick/Sherborn town line and northeast of Rockwood Road, and is a portion containing approximately 20 acres of the land shown on the town of Sherborn assessors' maps as Map 10, Lot 5.

SECTION 2. Notwithstanding the provisions of chapter 44 of the General Laws to the contrary, the maturities of bonds issued by the town of Natick for the golf course project shall either be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than five years from the estimated date of commencement of regular operation of the golf course, as determined by the town treasurer, and the last payment of principal of the bonds shall be not later than 30 years from the date of the bonds. Not more than 10 per cent of the principal amount of the bonds issued for the project may be used to establish a debt service reserve fund. Any net earnings derived from investment of the proceeds of the bonds may be expended by the town treasurer to pay interest on the bonds but otherwise shall be used only for construction, equipping, operation or maintenance of the golf course. Except as otherwise provided in this act indebtedness incurred by the town for the golf course project shall be subject to the applicable provisions of said chapter 44.

SECTION 3. The vote of the town passed under article 13 of the warrant for the October 1, 1996 town meeting, authorizing bonds for the golf course project, is hereby ratified, validated and confirmed.

SECTION 4. There shall be established a Natick golf course oversight committee consisting of five members to be appointed by the town administrator, two to serve for one year, two to serve for two years, and one to serve for three years, and thereafter until their successors are appointed by the town administrator. These appointments shall be confirmed as provided in section 4-2 of the Natick town charter by the board of selectmen.

It shall be the responsibility of the oversight committee to monitor the operation and financing of the Natick golf course and any contracts with any agencies for the operation or enhancements of that facility. The committee shall accomplish that task by advice and recommendations to both the town administrator and the board of selectmen. Contracts for the construction, maintenance and operation of the golf facility shall be awarded by the town

Chap. 164

administrator with the approval of the board of selectmen.

SECTION 5. There shall be established by the board of selectmen an enterprise fund for receipt of all revenues from the Natick golf course and all moneys received for the benefit of the golf course other than bond proceeds, which shall be subject to the provisions of section 53F½ of chapter 44 of the General Laws. Such receipts are to be used to cover expenditures for operation of the Natick golf course and for future improvements or enhancements of the Natick golf course or for payment of principal and interest on any bonds or notes issued with respect to the golf course or golf related capital improvements as determined by the board of selectmen.

SECTION 6. This act shall take effect upon its passage.

Approved July 3, 1998.

Chapter 165. AN ACT RELATIVE TO THE BOSTON FAIR HOUSING COMMISSION.

Be it enacted, etc., as follows:

SECTION 1. Clause (4) of the fourth paragraph of section 7 of chapter 37 of the acts of 1994 is hereby amended by striking out, in line 3, the word "complainant" and inserting in place thereof the following word:- plaintiff.

SECTION 2. This act shall take effect upon its passage.

Approved July 3, 1998.

Chapter 166. AN ACT ESTABLISHING A CITY OR TOWN AID TO THE ELDERLY AND DISABLED TAXATION FUND.

Be it enacted, etc., as follows:

Chapter 60 of the General Laws is hereby amended by inserting after section 3C, as appearing in the 1996 Official Edition, the following section:-

Section 3D. A city or town which accepts the provisions of this section is hereby authorized, subject to the approval of the commissioner, to design and designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or to mail with such tax bills a separate form, whereby the taxpayers of said city or town may voluntarily check off, donate and pledge an amount not less than \$1 or such other designated amount which shall increase the amount otherwise due, and to establish a city or town aid to the elderly and disabled taxation fund for the purpose of defraying the real estate taxes of elderly and disabled persons of low income.

Chap. 166

Any amounts donated to said fund shall be deposited into a special account in the general treasury and shall be in the custody of the treasurer. The treasurer shall invest said funds at the direction of the officer, board, commission, committee or other agency of the city or town who or which is otherwise authorized and required to invest trust funds of the city or town and subject to the same limitations applicable to trust fund investments, except as otherwise specified herein. The fund, together with the interest earned thereon shall be used for the purpose specified in this section without further appropriation.

In any city or town establishing an aid to the elderly and disabled taxation fund, there shall be a taxation aid committee to consist of the chairman of the board of assessors, the city or town treasurer and three residents of the city or town to be appointed by the mayor or board of selectmen as the case may be. Said board shall adopt rules and regulations to carry out the provisions of this section and to identify the recipients of such aid.

Approved July 9, 1998.

**Chapter 167. AN ACT AUTHORIZING THE TOWN OF BILLERICA TO REFUND
A CERTAIN TAX PAYMENT.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Billerica may refund the payment of the fiscal year 1996 and fiscal year 1997 property tax paid by the Billerica Little League.

Approved July 9, 1998.

**Chapter 168. AN ACT EXEMPTING CERTAIN POSITIONS IN THE CITY OF
WESTFIELD FROM THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

SECTION 1. For the purpose of this act, "administrative head of a municipal department" shall mean an individual who is appointed to serve as chief operating officer and day-to-day administrative head of a municipal department of the city of Westfield excluding the law, fire, school and gas and electric light departments including, but not limited to, positions of superintendent of public works, superintendent of water, superintendent of sewer and wastewater treatment, police chief, director of parks, director of health and recreation and youth director.

SECTION 2. Notwithstanding the provisions of any general or special law to the contrary, the provisions of chapter 31 of the General Laws shall not apply to administrative

heads of municipal departments in the city of Westfield, nor shall the provisions of said chapter 31 apply to the following positions within said city: assistant assessor; appraiser; assistant city auditor; deputy water superintendent; deputy superintendent of public works; all positions within the law department; all positions within the engineering department which require a college degree in engineering; all positions within the personnel department; all inspector positions within the building department; planner within the community development department; and school department business manager.

SECTION 3. Notwithstanding the provisions of chapter 294 of the acts of 1920 or any other general or special law or ordinance of the city of Westfield to the contrary, an appointment as administrative head of a municipal department shall be for a term of three years or, upon expiration of a term until a successor shall be duly appointed and qualified. Removal of an administrative head of a municipal department prior to the expiration of the term of appointment shall be conducted in conformity with applicable law including, said chapter 294, and in conformity with such requirements as may be set forth in a collective bargaining agreement in effect between the city and a collective bargaining unit representing an individual whose appointment is subject to termination prior to the expiration of the appointed term. A permanent civil service employee in the municipal service of said city of Westfield who is appointed as administrative head of the municipal department in which he holds permanent status shall be granted a leave of absence from his permanent civil service position upon the effective date of such appointment and shall, without loss or accrual of civil service seniority, be entitled to be restored to such former position if he fails to be reappointed as administrative head after the expiration of his term of appointment. City department seniority shall continue to accrue to any such employee while employed as an administrative head of a municipal department.

SECTION 4. Each incumbent who has the present status of permanent civil service employee in his present position on the effective date of this act shall retain such civil service status until such time as he no longer serves in such position. Each incumbent administrative head of a municipal department who has the present status of provisional civil service employee and who, by virtue of this act, shall henceforth be subject to three-year appointment, shall be considered as appointed to a three-year term of office in his present position as of the effective date of this act. Each incumbent administrative head of a municipal department whose office is not a civil service office and who is serving pursuant to an appointment for a set term of years shall continue to serve the term of such appointment, notwithstanding the provisions of this act.

Approved July 9, 1998.

Chapter 169. AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN CREDIT INSURANCE.

Be it enacted, etc., as follows:

Chap. 169

SECTION 1. Section 110 of chapter 175 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 34, the words "forty thousand dollars" and inserting in place thereof the following figure:- \$125,000.

SECTION 2. Said section 110 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 42, the words "forty thousand dollar" and inserting in place thereof the following figure:- \$125,000.

SECTION 3. Section 133 of said chapter 175, as so appearing, is hereby amended by striking out, in line 57, the words "forty thousand dollars" and inserting in place thereof the following figure:- \$125,000.

SECTION 4. Said section 133 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 63, the words "forty thousand dollar" and inserting in place thereof the following figure:- \$125,000.

Approved July 10, 1998.

Chapter 170. AN ACT PROVIDING FOR GENDER NEUTRALITY IN THE CONSTRUCTION OF STATUTES.

Be it enacted, etc., as follows:

Section 6 of chapter 4 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out clause Fourth and inserting in place thereof the following clause:-

Fourth, Words importing the singular number may extend and be applied to several persons or things, words importing the plural number may include the singular, and words of one gender may be construed to include the other gender and the neuter.

Approved July 10, 1998.

Chapter 171. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF HATFIELD.

Be it enacted, etc., as follows:

SECTION 1. There shall be established in the town of Hatfield a department of public works, hereinafter called the department, which shall be under the jurisdiction of the board of selectmen.

SECTION 2. The board of selectmen of said town shall have and exercise all powers, rights, and duties now or from time to time vested by any general or special law in the highway department, vehicle maintenance department, sewer department, water department, tree department and health department, but as to the health department only the extent of the operation, maintenance and repair of the town's refuse transfer station.

The board of selectmen shall have all the powers and duties now and from time to time vested by general or special law or town by-law in the following boards, commissions, or positions: water commission, sewer commission, and tree warden, which commissions, boards, and positions are hereby abolished in said town.

No contracts or liabilities in force on the effective date of this act shall be affected hereby, but the board shall be deemed the lawful successor of said departments, commissions, boards and offices relative to such contracts or liabilities. It shall be the duty of said departments, commissions, and offices to turn over to the board of selectmen property and records, including all contracts, papers, documents, plans and property in their custody and control and each shall furnish to the board of selectmen such information as may be requested by the board of selectmen.

In addition the board of selectmen shall be responsible for the repair, alteration, and maintenance of the town's refuse transfer station now under the jurisdiction of the board of health and health department; for the repair and maintenance of all town-owned equipment, property and vehicles under the jurisdiction of the board of selectmen and those formerly under the water department, sewer department, and tree department and board of health specific to the operation, repair, alteration, and maintenance of the refuse transfer station; for the central purchasing of all public works related supplies, material, and equipment; and for awarding of all contracts for the repair, alteration, remodeling, construction, reconstruction, maintenance or renovation of all town public ways, grounds properties, facilities or equipment now placed under the jurisdiction of the board of selectmen.

SECTION 3. The board of selectmen shall initiate a recruitment and selection process for the position of director of public works who shall be responsible to said board. The board of selectmen shall appoint a screening committee charged with recommending the appointment of the first director of public works for the town. The committee shall establish detailed qualifications for the position of director of public works and seek candidates for the position through advertisements in professional journals and other recruitment sources. Within a reasonable period of time after its appointment, the committee shall report to the board of selectmen and recommend candidates for consideration.

The board of selectmen shall appoint the director of public works, pending the appointment of a director, said board may appoint an acting director. The compensation of the director or acting director shall be fixed by said board, subject to appropriations therefor.

No member of the board of selectmen shall be eligible for appointment as director of public works. During his tenure the director shall hold no elective or other appointive office, nor shall he engage in any other business or occupation without express written prior authorization of the board of selectmen.

The director shall have full authority to carry out the policies of the board of selectmen, and shall be responsible for the efficient exercise and performance of the powers, rights and duties vested in said board by this act.

Chap. 171

The director shall be specially fitted with education, training and experience necessary to perform the duties of such office, and need not be a resident of the town. He shall be a college graduate with an appropriate four year engineering degree. Before entering upon the duties of his office, he shall be sworn to the faithful and impartial performance thereof.

Such director shall, unless the selectmen deem it unnecessary or impractical by reason of cost or otherwise, give the town a bond with a surety company authorized to transact business in the commonwealth as surety for the faithful performance of his duties in such sum and upon such conditions as the board of selectmen may require.

The directors shall serve at the pleasure of the board of selectmen if and to the extent allowed by then applicable law, the selectmen on behalf of the town may, but need not, enter into an employment contract with any such director, the terms and conditions of which including length not necessarily limited to one calendar or fiscal year shall be determined by the selectmen in their sole discretion, subject only to law applicable at the time of entering into any such contract.

SECTION 4. The director of public works shall appoint and may suspend or remove division heads, assistants, laborers, and employees as he deems necessary. All such appointments and removals shall require the prior approval of the board of selectmen.

The director shall keep full and complete records of the doings of the office and render to the board of selectmen regular and full reports of all operations under his control during the period reported upon; and annually shall prepare a synopsis of such reports for publication in the town report. He shall keep said board fully advised as to the needs of the town within the scope of his duties, and shall annually furnish to said board not later than the first day of January of each year detailed estimates in writing of the appropriation required for the next fiscal year for the proper exercise and performance of all said powers, rights and duties. Each budget request shall be in such detail and in such format as may be required by said board and shall, unless the board of selectmen directs otherwise, be in such detail and in such format as may be suggested by the finance committee.

Approved July 16, 1998.

Chapter 172. AN ACT RELATIVE TO THE PROCUREMENT OF CERTAIN EDUCATIONAL SOFTWARE FOR PUBLIC SCHOOLS.

Be it enacted, etc., as follows:

Section 7 of chapter 30B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the words "or school textbooks" and inserting in place thereof the following words:- school textbooks, educational programs, educational courses, educational curricula in any media including educational software, newspapers, serials, periodicals, audiovisual materials or software maintenance.

Approved July 16, 1998.

Chapter 173. AN ACT RELATIVE TO LOWERING THE AGE FOR THE DONATION OF BLOOD.

Be it enacted, etc., as follows:

Section 184C of chapter 111 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 1, the word "eighteen" and inserting in place thereof the following figure:- 17.

Approved July 16, 1998.

Chapter 174. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 20 IN THE TOWN OF CHARLTON AS THE JENS MEMORIAL HIGHWAY.

Be it enacted, etc., as follows:

The portion of state highway route 20 in the town of Charlton from the Oxford town line to the Sturbridge town line shall be designated and known as the JENS highway, in memory of Jennifer Krukowski and those who lost their lives on route 20 in the town of Charlton. The department of highways is hereby directed to erect suitable markers along said highway bearing said designation in accordance with standards of said department.

Approved July 17, 1998.

Chapter 175. AN ACT REDUCING INCOME TAXES AND UNEMPLOYMENT INSURANCE RATES AND PROVIDING FOR WORKFORCE TRAINING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to make certain fiscal provisions forthwith for the fiscal year ending June 30, 1998, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The fourth paragraph of subsection (a) of section 12 of chapter 7A of the General Laws, as appearing in section 4 of chapter 88 of the acts of 1997, is hereby amended by striking out the figure "5" and inserting in place thereof the following figure:- 7.5.

SECTION 2. The second paragraph of section 2H of chapter 29 of the General Laws, as amended by section 4 of chapter 10 of the acts of 1997, is hereby further amended by striking out the word "five" and inserting in place thereof the following figure:- 7.5.

SECTION 3. Chapter 29 of the General Laws is hereby amended by inserting after section 2QQ, inserted by section 3 of chapter 78 of the acts of 1998, the following section:-

Section 2RR. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Workforce Training Fund, in this section called the Fund. There shall be credited to the Fund the workforce training contributions required by section 14L of chapter 151A.

(b) Subject to appropriation, the commissioner, which in this section shall have the meaning assigned by section 1 of chapter 151A, shall make expenditures from the Fund for the following purposes:

(1) To provide grants to employers, employer groups, labor organizations and training providers for projects to provide education and training to existing employees and newly hired workers. In determining who shall receive grants, the commissioner shall consider the following criteria:

(i) whether the project will increase the skills of low-wage, low-skilled workers;

(ii) whether the project will create or preserve jobs at wages sufficient to support a family;

(iii) whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers;

(iv) whether the employer has made a commitment to provide significant private investment in training during the duration of the grant and after the grant has expired;

(v) whether the project will supplement, rather than replace, private investments in training;

(vi) whether the employer is a small business that lacks the capacity to provide adequate training without such assistance;

(vii) whether the project will provide residents of the commonwealth with training for jobs that could otherwise be filled only by residents of other nations; and

(viii) whether the project is consistent with the workforce development blueprint prepared by the regional employment board.

Such grants shall be for amounts not to exceed \$250,000 and shall be for a term not to exceed two years.

(2) To provide technical assistance to increase training opportunities available to employees. The commissioner may provide this direct technical assistance by using existing institutions such as regional employment boards, community colleges, labor organizations, administrative entities for service delivery areas under the federal Job Training Partnership Act, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the department of labor and workforce development or of the corporation for business, work and learning. Such expenditures shall not exceed \$3,000,000 each year and the commissioner shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training.

(c) The commissioner shall adopt regulations to carry out the purposes of this section,

including the criteria set forth in paragraph (1) of subsection (b). The commissioner may contract with a private organization to carry out some or all of the commissioner's duties provided in this section.

(d) Not later than September 1 of each year, the commissioner shall file a report in writing with the joint committee on commerce and labor and the house and senate committees on ways and means concerning the grants made in the fiscal year ending on the preceding June 30, together with such recommendations and additional information as the commissioner considers appropriate.

SECTION 3A. Section 2RR of said chapter 29, inserted by section 3 of this act, is hereby repealed.

SECTION 4. Section 64 of said chapter 29, as appearing in the 1996 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

An employee may defer compensation; provided, however, that such deferral does not exceed the maximum allowable under the appropriate provisions of the Code, as amended and in effect for the taxable year, and appropriate regulations thereunder.

SECTION 5. Section 64B of said chapter 29, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

An employee may defer compensation; provided, however, that such deferral does not exceed the maximum allowable under the appropriate provisions of the Code, as amended and in effect for the taxable year, and appropriate regulations thereunder.

SECTION 6. Section 1 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word "year", in line 7, the following words:- ; provided, however, that references in this chapter to sections 162(a), 274(m) and 274(n) of the Internal Revenue Code of the United States shall refer to said Code as amended and in effect for the taxable year.

SECTION 7. Paragraph (m) of said section 1 of said chapter 62, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The term "capital gain income" shall mean gain from the sale or exchange of a capital asset; provided, however, that for purposes of determining Part A and Part C gross income, gains and losses shall be netted within short term and long term categories. The terms short term capital gain, short term capital loss, long term capital gain, long term capital loss, net short term capital gain, net short term capital loss, net long term capital gain, net long term capital loss shall have the meanings provided in section 1222 of the Internal Revenue Code of the United States, as amended and in effect for the taxable year. In determining the amount of gain or loss on any sale, exchange or other disposition of property, the provisions of section 6F shall be taken into account; provided, further, that losses from the sale or exchange of capital assets shall not include any item the deduction of which is, or but for some other section would be, prohibited by section 165(c), section 262, or section 267 of the Code.

SECTION 8. Paragraph (1) of subsection (a) of section 2 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (D).

SECTION 9. Said subsection (a) of said section 2 of said chapter 62, as so appearing, is hereby further amended by adding the following paragraph:-

(3)(A) Notwithstanding any other provision of this chapter, in the case of a distribution within the meaning of subsection (d)(3) of section 408A of the Code as amended and in effect for the taxable year, any amount included as income for federal tax purposes under said section 408A by reason of such distribution shall be included in gross income and, to the extent such distribution is included in adjusted gross income under subsection (c), shall be taken into account in determining taxable income under this chapter in the same manner as under subparagraph (A) of said subsection (d)(3) of said section 408A of said Code.

(B) Gain from the sale of a principal residence included in federal gross income under section 121 of the Code in effect on January 1, 1988, but excluded from federal gross income under section 121 of the said Code in effect for the taxable year, shall not be included in Massachusetts adjusted gross income. For the purposes of recognizing gain on the sale of a principal residence, the provisions of section 1034 of said Code shall not apply.

SECTION 10. Section 3 of said chapter 62 is hereby amended by striking out, in line 103, as appearing in the 1996 Official Edition, the words "two thousand two hundred dollars" and inserting in place thereof the following figure:- \$3,815.

SECTION 11. Said section 3 of said chapter 62 is hereby further amended by striking out the figure "\$3,815", inserted by section 10 of this act, and inserting in place thereof the following figure:- \$4,400.

SECTION 12. Said section 3 of said chapter 62 is hereby further amended by striking out, in line 110, as appearing in the 1996 Official Edition, the words "three thousand four hundred dollars" and inserting in place thereof the following figure:- \$5,895.

SECTION 13. Said section 3 of said chapter 62 is hereby further amended by striking out the figure "\$5,895", inserted by section 12 of this act, and inserting in place thereof the following figure:- \$6,800.

SECTION 14. Said section 3 of said chapter 62 is hereby further amended by striking out, in line 116, as appearing in the 1996 Official Edition, the words "four thousand four hundred dollars" and inserting in place thereof the following figure:- \$7,630.

SECTION 15. Said section 3 of said chapter 62 is hereby further amended by striking out the figure "\$7,630", inserted by section 14 of this act, and inserting in place thereof the following figure:- \$8,800.

SECTION 16. Section 4 of said chapter 62, as appearing in the 1996 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a)(1) Part A taxable income consisting of capital gains shall be taxed at the rate of 12 per cent.

(2) Part A taxable income consisting of interest and dividends shall be taxed at the rate of 5.95 per cent.

SECTION 17. Section 5 of said chapter 62, as so appearing, is hereby amended by adding the following subsection:-

(c) Notwithstanding any other provision of this chapter, a Roth IRA, so-called, as defined in section 408A of the Code, as amended and in effect for the taxable year, or an education individual retirement account, as defined in section 530 of said Code as amended and in effect for the taxable year, and any income accruing in a Roth IRA or an education individual retirement income account or any distribution therefrom shall be subject to tax under this chapter only to the extent that such income is included as income for federal income tax purposes under said section 408A or said section 530 of said Code.

SECTION 18. Subsection (i) of section 6 of said chapter 62, as appearing in section 63 of chapter 43 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said expenditures shall be the actual cost to the taxpayer or \$15,000, whichever is less; provided, however, that said credit shall be available to eligible taxpayers beginning in the tax year in which the repair or replacement of said cesspool or septic system was completed; and provided, further, that said credit shall not exceed \$1,500 in any tax year and any excess credit may be applied over the following five subsequent tax years up to an aggregate maximum of \$6,000.

SECTION 19. The Experience Rate Table in paragraph (1) of subsection (i) of section 14 of chapter 151A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the column headed B and inserting in place thereof the following column:-

B
2.2% or more
but
less than 2.6%
7.225
7.025
6.825
6.625
6.425
6.225
6.025
5.825
5.625
5.425
5.225
5.025
4.825
4.625
4.425
4.225
4.125

4.025
3.925
3.825
3.725
3.625
3.525
3.425
3.325
3.225
3.125
3.025
2.925
2.825
2.725
2.625
2.525
2.425
2.325
2.225
2.125
2.025
1.925
1.825
1.725
1.625
1.525
1.425
1.325

SECTION 19A. Said Experience Rate Table in said paragraph (1) of said subsection (i) of said section 14 of said chapter 151A is hereby further amended by striking out the column headed B, inserted by section 19 of this act, and inserting in place thereof the following column:-

B
2.2% or more
but
less than 2.6%

7.3
7.1
6.9
6.7
6.5

6.3
6.1
5.9
5.7
5.5
5.3
5.1
4.9
4.7
4.5
4.3
4.2
4.1
4.0
3.9
3.8
3.7
3.6
3.5
3.4
3.3
3.2
3.1
3.0
2.9
2.8
2.7
2.6
2.5
2.4
2.3
2.2
2.1
2.0
1.9
1.8
1.7
1.6
1.5
1.4

SECTION 20. Said chapter 151A is hereby further amended by inserting after section 14K the following section:-

Section 14L. (a) Each employer liable to pay a contribution under subsection (i) of section 14 shall also pay, in the same manner and at the same times as the commissioner prescribes for the contribution required by section 14, a workforce training contribution of 0.075 per cent of so much of its payroll as is subject to this chapter. To the extent consistent with federal law, the commissioner shall adjust the rate of said contribution so that the total amount of said contributions in a year substantially equals \$18,000,000, and shall adjust to the same extent the rate of the contribution required by section 14. The commissioner shall deposit the proceeds of said workforce training contributions in the Workforce Training Fund, established by section 2RR of chapter 29.

(b) Except where inconsistent with the provisions of this section, the terms and conditions of this chapter that apply to the payment of and the collection of contributions shall apply to the same extent to the payment of and the collection of the workforce training contribution required by this section; provided, however, that said contributions shall not be credited to the employer's account or the solvency account established pursuant to section 14, 14A or 14C.

SECTION 20A. Section 14L of said chapter 151A, inserted by section 20 of this act, is hereby repealed.

SECTION 21. Notwithstanding the provisions of section 14 of chapter 151A of the General Laws, the experience rate of an employer qualifying therefor under subsection (b) of said section 14 of said chapter 151A shall be the rate which appears in the column designated "B" for calendar year 1999.

SECTION 21A. Section 21 of this act is hereby repealed.

SECTION 22. The regulations required by subsection (c) of section 2RR of chapter 29 of the General Laws shall take effect not later than December 31, 1998.

SECTION 23. Sections 1 and 2 of this act shall take effect as of June 30, 1998.

SECTION 24. Sections 3, 19, 20 and 21 of this act shall take effect on January 1, 1999.

SECTION 25. Sections 3A, 20A and 21A of this act shall take effect on December 31, 2001.

SECTION 26. Section 19A of this act shall take effect on January 1, 2002.

SECTION 27. Sections 4, 5, 6, 7, 8, 9, 17 and 18 of this act shall take effect for tax years beginning on or after January 1, 1998.

SECTION 28. Sections 10, 12 and 14 of this act shall take effect for tax years beginning on or after January 1, 1998 but before January 1, 1999. Sections 11, 13, 15 and 16 of this act shall take effect for tax years beginning on or after January 1, 1999.

Approved July 21, 1998.

Chapter 176. AN ACT MAKING CERTAIN APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE 30, 1999 PRIOR TO FINAL ACTION ON THE GENERAL APPROPRIATION BILL FOR SAID FISCAL YEAR.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the amount of \$450,000,000 is hereby appropriated for the fiscal year ending June 30, 1999, to meet necessary expenditures prior to the enactment of the general appropriation act for said fiscal year for the maintenance and operation of the several departments, boards, commissions and institutions, including federal grant and Intragovernmental Service Fund expenditures, for other necessary services and for meeting certain requirements of law; provided, however, that said appropriation shall be in addition to any amounts previously appropriated and made available for said purposes; provided, however, that the authorization contained herein shall cease to be operative as of the effective date of the general appropriation act for said fiscal year and all actions taken under this section shall apply against said general appropriation act; and provided further, that all expenditures made under this authorization shall be consistent with appropriations made in said general appropriation act.

SECTION 2. This act shall take effect as of July 1, 1998.

Approved July 21, 1998.

Chapter 177. AN ACT RELATIVE TO THE ANNUAL TOWN MEETING HELD IN THE TOWN OF CARVER IN 1998.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 9 of chapter 39 of the General Laws or any other general or special law or by-law to the contrary, the town of Carver may commence its 1998 annual town meeting on June 1, 1998. All actions taken at said annual town meeting are hereby ratified, validated and confirmed, to the same extent as if said meeting had been scheduled in full compliance with such laws or by-laws.

SECTION 2. This act shall take effect upon its passage.

Approved 21, 1998.

Chapter 178. AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 9 of article 1 of the charter of the town of Provincetown, which is on file in the office of the archivist of the commonwealth, as provided in section

Chap. 178

12 of chapter 43B of the General Laws, is hereby amended by striking out section 9-1-2 and inserting in place thereof the following section:-

Section 9-1-2. On or before the third Monday of December in each year, the town manager shall submit to the board of selectmen a careful, detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

SECTION 2. Said chapter 9 of said article 1 of said charter is hereby further amended by striking out section 9-1-5 and inserting in place thereof the following section:-

Section 9-1-5. The board of selectmen shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. On or before the thirty-first day of January of each year the board of selectmen shall transmit a copy of the budget together with their recommendations relative thereto to each member of the finance committee.

SECTION 3. Said chapter 9 of said article 1 of said charter is hereby further amended by striking out section 9-2-3 and inserting in place thereof the following section:-

Section 9-2-3. The town manager shall submit the capital improvements program to the board of selectmen by the third Monday of December prior to the annual town meeting. The board of selectmen shall act thereon on or before the thirty-first day of January and shall then submit it to the finance committee, which shall issue its recommendations as part of its printed report on the annual budget.

SECTION 4. This act shall take effect upon its passage.

Approved 21, 1998.

Chapter 179. AN ACT RELATIVE TO THE CONSIDERATION OF DOMESTIC VIOLENCE IN CUSTODY AND VISITATION PROCEEDINGS.

Be it enacted, etc., as follows:

SECTION 1. Section 31 of chapter 208 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 38 and 39, the words "has been the perpetrator of domestic violence,".

SECTION 2. Said section 31 of said chapter 208, as so appearing, is hereby further amended by inserting after the word "merits", in line 48, the following words:- , except as provided for in section 31A.

SECTION 3. Said chapter 208 is hereby further amended by inserting after section 31 the following section:-

Section 31A. In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding, by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, "an abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

- (a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;
- (b) ordering visitation supervised by an appropriate third party, visitation center or agency;
- (c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;
(e) ordering the abusive parent to pay the costs of supervised visitation;
(f) prohibiting overnight visitation;
(g) requiring a bond from the abusive parent for the return and safety of the child;
(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearings.

SECTION 4. Chapter 209 of the General Laws is hereby amended by adding the following section:-

Section 38. In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding, by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody, or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

- (a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;
- (b) ordering visitation supervised by an appropriate third party, visitation center or agency;
- (c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;
- (d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;
- (e) ordering the abusive parent to pay the costs of supervised visitation;
- (f) prohibiting overnight visitation;
- (g) requiring a bond from the abusive parent for the return and safety of the child;
- (h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and
- (i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

SECTION 5. Section 3 of chapter 209A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "child", in line 17, the following words:- ; provided, however, that in any case brought in the probate and family court a finding by such court by a preponderance of the evidence that a pattern or serious incident of abuse, as defined in section 31A of chapter 208, toward a parent or child has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as

the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent, the court shall provide for the safety and well-being of the child and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

SECTION 6. Section 10 of chapter 209C of the General Laws is hereby amended by adding the following subsection:-

(e) In issuing any temporary or permanent custody order, the probate and family court shall consider evidence of past or present abuse toward a parent or child as a factor contrary to the best interest of the child. For the purposes of this section, "abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing bodily injury; or (b) placing another in reasonable fear of imminent bodily injury. "Serious incident of abuse" shall mean the occurrence of one or more of the following acts between a parent and the other parent or between a parent and child: (a) attempting to cause or causing serious bodily injury; (b) placing another in reasonable fear of imminent serious bodily injury; or (c) causing another

to engage involuntarily in sexual relations by force, threat or duress. For purposes of this section, "bodily injury" and "serious bodily injury" shall have the same meanings as provided in section 13K of chapter 265.

A probate and family court's finding by a preponderance of the evidence, that a pattern or serious incident of abuse has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody, or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an "abusive parent" shall mean a parent who has committed a pattern of abuse or a serious incident of abuse.

For the purposes of this section, the issuance of an order or orders under chapter 209A shall not in and of itself constitute a pattern or serious incident of abuse; nor shall an order or orders entered ex parte under said chapter 209A be admissible to show whether a pattern or serious incident of abuse has in fact occurred; provided, however, that an order or orders entered ex parte under said chapter 209A may be admissible for other purposes as the court may determine, other than showing whether a pattern or serious incident of abuse has in fact occurred; provided further, that the underlying facts upon which an order or orders under said chapter 209A was based may also form the basis for a finding by the probate and family court that a pattern or serious incident of abuse has occurred.

If the court finds that a pattern or serious incident of abuse has occurred and issues a temporary or permanent custody order, the court shall within 90 days enter written findings of fact as to the effects of the abuse on the child, which findings demonstrate that such order is in the furtherance of the child's best interests and provides for the safety and well-being of the child.

If ordering visitation to the abusive parent the court shall provide for the safety and well-being of the child, and the safety of the abused parent. The court may consider:

(a) ordering an exchange of the child to occur in a protected setting or in the presence of an appropriate third party;

(b) ordering visitation supervised by an appropriate third party, visitation center or agency;

(c) ordering the abusive parent to attend and complete, to the satisfaction of the court, a certified batterer's treatment program as a condition of visitation;

(d) ordering the abusive parent to abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours preceding visitation;

(e) ordering the abusive parent to pay the costs of supervised visitation;

(f) prohibiting overnight visitation;

(g) requiring a bond from the abusive parent for the return and safety of the child;

(h) ordering an investigation or appointment of a guardian ad litem or attorney for the child; and

(i) imposing any other condition that is deemed necessary to provide for the safety and well-being of the child and the safety of the abused parent.

Nothing in this section shall be construed to affect the right of the parties to a hearing under the rules of domestic relations procedure or to affect the discretion of the probate and family court in the conduct of such hearing.

Approved July 22, 1998.

Chapter 180. AN ACT RELATIVE TO GUN CONTROL IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Section 168B of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words "one hundred and twenty-two to one hundred and thirty-one J" and inserting in place thereof the following words:- 122 to 131P.

SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting after section 2RR, inserted by section 3 of chapter of the acts of 1998, the following section:-

Section 2SS. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Firearms Records Keeping Fund. Amounts credited to such fund shall be available, subject to appropriation, for the purposes of implementing, enhancing or maintaining a state firearms information system, for improving local law enforcement access thereto and for improving the quality of record keeping of weapons transfers pursuant to sections 121 to 131P, inclusive, of chapter 140. There shall be credited to such fund all revenues collected by the commonwealth pursuant to the provisions of sections 129B, 131, 131A and 131F of chapter 140. Revenues credited to this fund shall be expended, subject to appropriation, for the following purposes:

(a) a grant program to be administered by the executive office of public safety for local licensing authorities, as defined in section 121 of said chapter 140, for the acquisition of information technology hardware and software necessary for the implementation of said sections 121 to 131P, inclusive, of said chapter 140; provided, however, that said executive office shall promulgate regulations for said grant program and shall work in consultation with the criminal history systems board to maximize efficiencies through the use of existing information technology hardware and software connections between said board and such licensing authorities; and

(b) administrative and personnel costs of the department of state police and the criminal history systems board for the implementation of said sections 121 to 131P, inclusive, of said chapter 140; provided, however, that amounts so appropriated shall not exceed an aggregate total of \$400,000 in any fiscal year.

SECTION 3. The second paragraph of section 22F of chapter 40 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first

sentence and inserting in place thereof the following sentence:- A fee or charge imposed pursuant to this section shall supersede fees or charges already in effect, or any limitations on amounts placed thereon for the same service, work, license, permit or certificate; provided, however, that this section shall not supersede the provisions of sections 31 to 77, inclusive, of chapter 6A, chapter 80, chapter 83, chapter 138, sections 121 to 131N, inclusive, of chapter 140 or section 10A of chapter 148.

SECTION 4. Section 200 of chapter 111 of the General Laws is hereby repealed.

SECTION 5. Section 12A of chapter 112 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:- The colonel of state police shall make available to the commissioner of public health all reports regarding: (i) bullet wounds, gunshot wounds, powder burns or any other injury arising from or caused by the discharge of a rifle, shotgun, firearm or air rifle; (ii) burn injuries affecting 5 per cent or more of the surface area of the human body; and (iii) wounds or injuries caused by a knife or other sharp or pointed instrument.

SECTION 6. Section 11 of chapter 131 of the General Laws, as so appearing, is hereby amended by inserting after the word "fourteen", in line 8, the following words:- ; provided, however, that any individual issued a firearm identification card under section 129B of chapter 140 or a license to carry firearms, including Class A and Class B licenses, under section 131 of said chapter 140 shall be automatically qualified to receive a sporting, hunting, fishing or trapping license.

SECTION 7. Section 14 of said chapter 131, as so appearing, is hereby amended by inserting after the fourth paragraph the following paragraph:-

Any individual issued a firearm identification card under section 129B of chapter 140 or a license to carry firearms, including Class A and Class B licenses, under section 131 of said chapter 140, shall be automatically qualified to receive a sporting, hunting, fishing or trapping license.

SECTION 8. Chapter 140 of the General Laws is hereby amended by striking out section 121, as so appearing, and inserting in place thereof the following section:-

Section 121. As used in sections 122 to 131P, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Ammunition", cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges, chemical mace or any device or instrument which contains or emits a liquid, gas, powder or any other substance designed to incapacitate.

"Assault weapon", shall have the same meaning as a semiautomatic assault weapon as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(30), and shall include, but not be limited to, any of the weapons, or copies or duplicates of the weapons, of any caliber, known as: (i) Avtomat Kalashnikov (AK) (all models); (ii) Action Arms Israeli Military Industries UZI and Galil; (iii) Beretta Ar70 (SC-70); (iv) Colt AR-15; (v) Fabrique National FN/FAL, FN/LAR and FNC; (vi) SWD M-10, M-11, M-11/9 and M-12; (vii) Steyr AUG; (viii) INTRATEC TEC-9, TEC-DC9

Chap. 180

and TEC-22; and (viii) revolving cylinder shotguns, such as, or similar to, the Street Sweeper and Striker 12; provided, however, that the term assault weapon shall not include: (i) any of the weapons, or replicas or duplicates of such weapons, specified in appendix A to 18 U.S.C. section 922, as such weapons were manufactured on October 1, 1993; (ii) any weapon that is operated by manual bolt, pump, lever or slide action; (iii) any weapon that has been rendered permanently inoperable or otherwise rendered permanently unable to be designated a semiautomatic assault weapon; (iv) any weapon that was manufactured prior to the year 1899; (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable assault weapon; (vi) any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; or (vii) any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.

"Conviction", a finding or verdict of guilt or a plea of guilty, whether or not final sentence is imposed.

"Firearm", a pistol, revolver or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged and of which the length of the barrel or barrels is less than 16 inches or 18 inches in the case of a shotgun as originally manufactured; provided, however, that the term firearm shall not include any weapon that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors.

"Gunsmith", any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun.

"Imitation firearm", any weapon which is designed, manufactured or altered in such a way as to render it incapable of discharging a shot or bullet.

"Large capacity feeding device", (i) a fixed or detachable magazine, box, drum, feed strip or similar device capable of accepting, or that can be readily converted to accept, more than ten rounds of ammunition or more than five shotgun shells; or (ii) a large capacity ammunition feeding device as defined in the federal Public Safety and Recreational Firearms Use Protection Act, 18 U.S.C. section 921(a)(31). The term "large capacity feeding device" shall not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber ammunition.

"Large capacity weapon", any firearm, rifle or shotgun: (i) that is semiautomatic with a fixed large capacity feeding device; (ii) that is semiautomatic and capable of accepting, or readily modifiable to accept, any detachable large capacity feeding device; (iii) that employs a rotating cylinder capable of accepting more than ten rounds of ammunition in a rifle or firearm and more than five shotgun shells in the case of a shotgun or firearm; or (iv) that is

an assault weapon. The term "large capacity weapon" shall be a secondary designation and shall apply to a weapon in addition to its primary designation as a firearm, rifle or shotgun and shall not include: (i) any weapon that was manufactured in or prior to the year 1899; (ii) any weapon that operates by manual bolt, pump, lever or slide action; (iii) any weapon that is a single-shot weapon; (iv) any weapon that has been modified so as to render it permanently inoperable or otherwise rendered permanently unable to be designated a large capacity weapon; or (v) any weapon that is an antique or relic, theatrical prop or other weapon that is not capable of firing a projectile and which is not intended for use as a functional weapon and cannot be readily modified through a combination of available parts into an operable large capacity weapon.

"Length of barrel" or "barrel length", that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized and shall include the chamber.

"Licensing authority", the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

"Machine gun", a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, including a submachine gun.

"Purchase" and "sale" shall include exchange; the word "purchaser" shall include exchanger; and the verbs "sell" and "purchase", in their different forms and tenses, shall include the verb exchange in its appropriate form and tense.

"Rifle", a weapon having a rifled bore with a barrel length equal to or greater than 16 inches and capable of discharging a shot or bullet for each pull of the trigger.

"Sawed-off shotgun", any weapon made from a shotgun, whether by alteration, modification or otherwise, if such weapon as modified has one or more barrels less than 18 inches in length or as modified has an overall length of less than 26 inches.

"Semiautomatic", capable of utilizing a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and requiring a separate pull of the trigger to fire each cartridge.

"Shotgun", a weapon having a smooth bore with a barrel length equal to or greater than 18 inches with an overall length equal to or greater than 26 inches, and capable of discharging a shot or bullet for each pull of the trigger.

"Violent crime", shall mean any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult, that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

"Weapon", any rifle, shotgun or firearm.

Chap. 180

Where the local licensing authority has the power to issue licenses or cards under this chapter, but no such licensing authority exists, any resident or applicant may apply for such license or firearm identification card directly to the colonel of state police and said colonel shall for this purpose be the licensing authority.

The provisions of sections 122 to 129D, inclusive, and sections 131, 131A, 131B and 131E shall not apply to:

(A) any firearm, rifle or shotgun including any firearm, rifle or shotgun with matchlock, flintlock, percussion cap or similar type of ignition system manufactured in or prior to the year 1899;

(B) any replica or any firearm, rifle or shotgun described in clause (A) if such replica: (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) manufacturers or wholesalers of firearms, rifles, shotguns or machine guns.

SECTION 9. Section 122 of said chapter 140, as so appearing, is hereby amended by inserting after the word "investigation", in line 3, the following words:- into the criminal history of the applicant to determine eligibility for a license under this section.

SECTION 10. Said section 122 of said chapter 140, as so appearing, is hereby further amended by striking out, in line 10, the words ", if any,".

SECTION 11. Said section 122 of said chapter 140, as so appearing, is hereby further amended by inserting after the fourth sentence the following sentence:- The licensing authority to whom such application is made shall cause one copy of such application to be forwarded to the executive director of the criminal history systems board.

SECTION 12. Section 122B of said chapter 140, as so appearing, is hereby amended by inserting after the word "may", in line 4, the following words:- , after an investigation into the criminal history of the applicant to determine eligibility to be licensed under this section,.

SECTION 13. The first paragraph of said section 122B of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- The licensing authority to whom such application is made shall cause one copy of any approved application to be forwarded to the executive director of the criminal history systems board.

SECTION 14. Section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "shotgun", in line 11, the following words:- , and designation as a large capacity weapon, if applicable.

SECTION 15. Said section 123 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 24 to 26, inclusive, the words ", once a week, send a copy of the record of sales, rentals and leases made by him for the preceding seven days" and inserting in place thereof the following words:- submit a record of all sales, rentals and leases forthwith at the time of such sale, rental or lease via electronic communication link.

SECTION 16. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "twenty-nine B", in line 35, the following words:-

nor shall any large capacity firearm or large capacity feeding device therefor be delivered to any person not having a Class A license to carry firearms issued under section 131 nor shall any large capacity rifle or shotgun or large capacity feeding device therefor be delivered to any person not having a Class A or Class B license to carry firearms issued under said section 131.

SECTION 17. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "business", in line 40, the following words:- , subject to the restrictions imposed upon such permits as provided under section 131A.

SECTION 18. Said section 123 of said chapter 140s so appearing, is hereby further amended by inserting after the word "thirty-one", in line 49, the following words:- ; that no large capacity firearm nor large capacity feeding device therefor shall be sold, rented, leased or transferred to any person not having (i) a Class A license to carry firearms issued under section 131 or (ii) a proper permit issued under section 131A and a firearm identification card issued under section 129B; that no large capacity rifle or shotgun nor large capacity feeding device therefor shall be sold to any person not having a Class A or Class B license to carry firearms issued under said section 131.

SECTION 19. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "transaction", in line 81, the following nine clauses:-

Thirteenth, That the current validity of any firearm identification card, license to carry firearms or permit to purchase, rent or lease firearms presented, and that the person presenting said card, license or permit is the lawful holder thereof, shall be verified by the licensee prior to any sale, rental or lease of a rifle, shotgun, firearm or large capacity feeding device; and, upon being presented with such card or license that is expired, suspended or revoked, the licensee shall notify the licensing authority of the presentment of such expired, suspended or revoked card, license or permit; and further, the licensee may take possession of such card or license provided that, in such case, such licensee shall: (i) issue a receipt, in a form provided by the executive director of the criminal history systems board, to the holder thereof which shall state that the holder's card or license is expired, suspended or revoked, was taken by such licensee and forwarded to the licensing authority by whom it was issued and such receipt shall be valid for the date of issuance for the purpose of providing immunity from prosecution under section 10 of chapter 269 for unlawfully possessing a firearm, rifle or shotgun or large capacity weapon; (ii) notify the cardholder or licensee of his requirement to renew said card or license; and (iii) forward such expired card or license to the licensing authority forthwith; provided, however, that such licensee shall be immune from civil and criminal liability for good faith compliance with the provisions herein.

Fourteenth, That the licensee shall conspicuously post at each purchase counter the following warning in bold type not less than one inch in height: "IT IS UNLAWFUL TO STORE OR KEEP A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN IN ANY PLACE UNLESS THAT WEAPON IS EQUIPPED WITH A TAMPER-RESISTANT SAFETY DEVICE OR IS STORED OR KEPT IN A SECURELY LOCKED CONTAINER.", and that such licensee shall provide said warning, in writing, to the pur-

chaser or transferee of any firearm, rifle, shotgun or machine gun in bold type not less than one-quarter inch in height.

Fifteenth, That all licensees shall maintain a permanent place of business that is not a residence or dwelling wherein all transactions described in this section shall be conducted and wherein all records required to be kept under this section shall be so kept.

Sixteenth, That no licensee shall sell, lease, rent, transfer or deliver or offer for sale, lease, rent, transfer or delivery to any person any assault weapon or large capacity feeding device that was not otherwise lawfully possessed on September 13, 1994.

Seventeenth, That any licensee from whom a rifle, shotgun, firearm or machine gun is lost or stolen shall report such loss or theft to the licensing authority and the executive director of the criminal history systems board forthwith. Such report shall include a complete description of the weapon, including the make, model, serial number and caliber and whether such weapon is a large capacity weapon.

Eighteenth, That no licensee shall sell, rent, lease, transfer or deliver or offer for sale, lease, transfer or delivery any firearm, to any purchaser in the commonwealth unless such sale is to a business entity that is primarily a firearm wholesaler and the sale, by its terms, prohibits the purchaser from reselling such firearm to a firearm retailer or consumer in the commonwealth if such firearm has a frame, barrel, cylinder, slide or breechblock that is composed of: (i) any metal having a melting point of less than 900 degrees Fahrenheit; (ii) any metal having an ultimate tensile strength of less than 55,000 pounds per square inch; or (iii) any powdered metal having a density of less than 7.5 grams per cubic centimeter. This clause shall not apply to any make and model of firearm for which a sample of three firearms in new condition all pass the following test: Each of the three samples shall fire 600 rounds, stopping every 100 rounds to tighten any loose screws and to clean the gun if required by the cleaning schedule in the user manual, and as needed to refill the empty magazine or cylinder to capacity before continuing. For any firearm that is loaded in a manner other than via a detachable magazine, the tester shall also pause every 50 rounds for ten minutes. The ammunition used shall be the type recommended by the firearm manufacturer in its user manual or, if none is recommended, any standard ammunition of the correct caliber in new condition. A firearm shall pass this test if it fires the first 20 rounds without a malfunction, fires the full 600 rounds with not fewer than six malfunctions and completes the test without any crack or breakage of an operating part of the firearm. The term "crack" or "breakage" shall not include a crack or breakage that does not increase the danger of injury to the user. For purposes of evaluating the results of this test, malfunction shall mean any failure to feed, chamber, fire, extract or eject a round or any failure to accept or eject a magazine or any other failure which prevents the firearm, without manual intervention beyond that needed for routine firing and periodic reloading, from firing the chambered round or moving a new round into position so that the firearm is capable of firing the new round properly. "Malfunction" shall not include a misfire caused by a faulty cartridge the primer of which fails to detonate when properly struck by the firearm's firing mechanism.

Nineteenth, That no licensee shall sell, rent, lease, transfer or deliver or offer for sale, lease, transfer or delivery any firearm to any purchaser in the commonwealth unless such sale is to a business entity that is primarily a firearms wholesaler, and the sale, by its terms, prohibits such purchaser from reselling such firearm to a firearm retailer or consumer in the commonwealth if such firearm is prone to accidental discharge which, for purposes of this clause, shall mean any make and model of firearm for which a sample of five firearms in new condition all undergo, and none discharge during, the following test: Each of the five sample firearms shall be: (a) test loaded; (b) set so that the firearm is in a condition such that pulling the trigger and taking any action that must simultaneously accompany the pulling of the trigger as part of the firing procedure would fire the handgun; and (c) dropped onto a solid slab of concrete from a height of one meter from each of the following positions: (i) normal firing position; (ii) upside down; (iii) on grip; (iv) on the muzzle; (v) on either side; and (vi) on the exposed hammer or striker or, if there is no exposed hammer or striker, the rearmost part of the firearm. If the firearm is designed so that its hammer or striker may be set in other positions, each sample firearm shall be tested as above with the hammer or striker in each such position but otherwise in such condition that pulling the trigger, and taking any action that must simultaneously accompany the pulling of the trigger as part of the firing procedure, would fire the firearm. Alternatively, the tester may use additional sample firearms of the same make and model, in a similar condition, for the test of each of these hammer striker settings.

Twentieth, That no licensee shall sell, rent, lease, transfer or deliver or offer for sale, lease, transfer or delivery, any firearm to any purchaser in the commonwealth unless such sale is to a business entity that is primarily a firearm wholesaler, and the sale, by its terms, prohibits the purchaser from reselling such firearm to a firearm retailer or consumer in the commonwealth if such firearm is prone to: (i) firing more than once per pull of the trigger; or (ii) explosion during firing.

Twenty-first, That no licensee shall sell, rent, lease, transfer or deliver or offer for sale, lease, transfer or delivery any firearm to any purchaser in the commonwealth unless such sale is to a business entity that is primarily a firearm wholesaler and the sale, by its terms, prohibits the purchaser from reselling such firearm to a firearm retailer or consumer in the commonwealth if such firearm has a barrel less than three inches in length, unless the licensee discloses in writing, prior to the transaction, to the prospective buyer, lessee, deliverer or transferee the limitations of the accuracy of the particular make and model of the subject firearm, by disclosing the make and model's average group diameter test result at seven yards, average group diameter test result at 14 yards and average group diameter test result at 21 yards. For purposes of this clause, "average group diameter test result" shall mean the arithmetic mean of three separate trials, each performed as follows on a different sample firearm in new condition of the make and model at issue. Each firearm shall fire five rounds at a target from a set distance and the largest spread in inches between the centers of any of the holes made in a test target shall be measured and recorded. This procedure shall be repeated two more times on the firearm. The arithmetic mean of each of the three recorded results shall be deemed the result of the trial for that particular sample firearm. The

ammunition used shall be the type recommended by the firearm manufacturer in its user manual or, if none is recommended, any standard ammunition of the correct caliber in new condition.

SECTION 20. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "thirty", in line 83, the following words:- or section 131E.

SECTION 21. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the first paragraph the following two paragraphs:-

No person licensed under the provisions of section 122 or section 122B shall sell, rent, lease, transfer or deliver any rifle, shotgun or firearm or ammunition or ammunition feeding device contrary to the provisions of section 130 or section 131E; and no such licensee shall sell, rent, lease, transfer or deliver any rifle, shotgun or firearm or ammunition or ammunition feeding device to any person who does not have in his possession the required firearm identification card or proof of exemption therefrom, license to carry firearms or permit to purchase, rent or lease firearms and who does not present such card, proof, license or permit to the licensee in person at the time of purchase, rental or lease. No person licensed under the provisions of section 122 or section 122B shall fill an order for such weapon, ammunition or ammunition feeding device that was received by mail, facsimile, telephone or other telecommunication unless such transaction or transfer includes the in-person presentation of the required card, proof, license or permit as required herein prior to any sale, delivery or any form of transfer of possession of the subject weapon, ammunition or ammunition feeding device. Transactions between persons licensed under section 122 or between federally licensed dealers shall be exempt from the provisions of this paragraph.

The licensing authority shall enter, one time per calendar year, during regular business hours, the commercial premises owned or leased by any licensee, wherein such records required to be maintained under this section are stored or maintained, and inspect, in a reasonable manner, such records and inventory for the purpose of enforcing the provisions of this section. If such records and inventory contain evidence of violations of this section, the inspecting officer shall produce and take possession of copies of such records and, in the event that the licensee subject to inspection does not possess copying equipment, the inspecting officer shall arrange to have copied, in a reasonable time and manner, such records that contain evidence of such violations and the costs for such copying shall be assessed against the owner of such records. Licensees found to be in violation of this section shall be subject to the suspension or permanent revocation of such license issued under section 122 and to the provisions of section 128. Nothing herein shall prohibit the licensing authority or the department of state police from conducting such inspections pursuant to a valid search warrant issued by a court of competent jurisdiction.

SECTION 22. Said section 123 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "ammunition", in line 92, the following words:-

, including the restrictions imposed upon firearm identification cards issued under section 129B, licenses to carry firearms issued under section 131 and permits to purchase, lease or rent firearms issued under section 131A.

SECTION 23. Section 128 of said chapter 140, as so appearing, is hereby amended by striking out, in line 4, the words "or ninth" and inserting in place thereof the following words:- , ninth, sixteenth, eighteenth, nineteenth, twentieth or twenty-first.

SECTION 24. Said section 128 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 8 to 11, inclusive, the words "for the first offense be punished by a fine of not less than five hundred nor more than one thousand dollars, and for any subsequent offense by imprisonment in the state prison for not more than ten years" and inserting in place thereof the following words:- be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.

SECTION 25. Section 128A of said chapter 140, as so appearing, is hereby amended by inserting after the word "sells", in line 10, the following words:- or transfers.

SECTION 26. Said section 128A of said chapter 140, as so appearing, is hereby further amended by inserting after the word "such", in line 30, the following words:- large capacity feeding device,.

SECTION 27. Said section 128A of said chapter 140, as so appearing, is hereby further amended by inserting after the word "including", in line 31, the following words:- its designation as a large capacity weapon, if applicable,.

SECTION 28. Section 128B of said chapter 140, as so appearing, is hereby amended by striking out, in lines 16 to 18, inclusive, the words "or not more than one hundred dollars, and for any subsequent offense by imprisonment for not more than two and one-half" and inserting in place thereof the following words:- of not less than \$500 nor more than \$1,000 and for any subsequent offense by imprisonment in the state prison for not more than ten.

SECTION 29. Said chapter 140 is hereby further amended by striking out section 129B, as so appearing, and inserting in place thereof the following section:-

Section 129B. A firearm identification card shall be issued and possessed subject to the following conditions and restrictions:

(1) Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority an application for a firearm identification card, or renewal of the same, which the licensing authority shall issue, unless the applicant:

(i) has ever, in a court of the commonwealth, been convicted or adjudicated a youthful offender or delinquent child, both as defined in section 52 of chapter 119, for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation

of weapons or ammunition for which a term of imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C including, but not limited to, a violation under said chapter 94C; provided, however, that except for the commission of a violent crime or a crime involving the trafficking of controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, such applicant's right or ability to possess a non-large capacity rifle or shotgun shall be deemed restored in the commonwealth with respect to such conviction or adjudication and such conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(ii) has, in any other state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of: (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C; provided, however, that, except for the commission of a violent crime or a crime involving the trafficking of weapons or controlled substances, if the applicant has been so convicted or adjudicated or released from confinement, probation or parole supervision for such conviction or adjudication, whichever is last occurring, not less than five years immediately preceding such application, and such applicant's right or ability to possess a rifle or shotgun has been fully restored in the jurisdiction wherein the subject conviction or adjudication was entered, such conviction or adjudication shall not disqualify such applicant for a firearm identification card;

(iii) has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such an illness in a manner that should prevent the applicant from possessing a firearm, rifle or shotgun;

(iv) is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, in which case he may make application for such card after the expiration of five years from the date of such confinement or treatment and upon presentation of an affidavit issued by such physician to the effect that such physician knows the applicant's history of treatment and that in such physician's opinion the applicant is deemed cured;

(v) is at the time of the application less than 15 years of age;

(vi) is at the time of the application more than 15 but less than 18 years of age, unless the applicant submits with his application a certificate of his parent or guardian granting the applicant permission to apply for a card;

Chap. 180

(vii) is an alien;

(viii) is currently subject to: (a) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (b) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction; or

(ix) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

(2) Within seven days of the receipt of a completed application for a card, the licensing authority shall forward one copy of the application and one copy of the applicant's fingerprints to the colonel of state police, who shall, within 30 days, advise the licensing authority, in writing, of any disqualifying criminal record of the applicant arising from within or without the commonwealth and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons from possessing a card; provided, however, that the taking of fingerprints shall not be required in issuing the renewal of a card if the renewal applicant's fingerprints are on file with the department of state police. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of mental health, department of probation and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. If the information available to the colonel does not indicate that the possession of a non-large capacity rifle or shotgun by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within such 30 day period.

(3) The licensing authority may not prescribe any other condition for the issuance of a firearm identification card and shall, within 30 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such card shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a rifle or shotgun by the applicant would be in violation of state or federal law.

(4) A firearm identification card shall be revoked or suspended by the licensing authority or his designee upon the occurrence of any event that would have disqualified the holder from being issued such card or from having such card renewed or for a violation of a restriction provided under this section. Any revocation or suspension of a card shall be in writing and shall state the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such card and receipt for fee paid for such card, and the person whose card is so revoked or suspended shall take all action required under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded to the executive director of the criminal history systems board and the commissioner of probation and shall be included in the criminal justice information system. A revoked or suspended card may be reinstated only upon the termination of all disqualifying conditions.

(5) Any applicant or holder aggrieved by a denial, revocation or suspension of a firearm identification card, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receipt of notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit in which the licensing authority is required to respond to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in the city or town wherein the applicant filed for or was issued such card. A justice of such court, after a hearing, may direct that a card be issued or reinstated to the petitioner if the justice finds that such petitioner is not prohibited by law from possessing such card.

(6) A firearm identification card shall not entitle a holder thereof to possess: (i) a large capacity firearm or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range; or (ii) a non-large capacity firearm or large capacity rifle or shotgun or large capacity feeding device therefor, except under a Class A license issued to a shooting club as provided under section 131 or under the direct supervision of a holder of a Class A or Class B license issued to an individual under section 131 at an incorporated shooting club or licensed shooting range. A firearm identification card shall not entitle a holder thereof to possess any rifle or shotgun that is, or in such manner that is, otherwise prohibited by law. A firearm identification card shall be valid for the purpose of purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate. Except as otherwise provided herein, a firearm identification card shall not be valid for the use, possession, ownership, transfer, purchase, sale, lease, rental or transportation of a rifle or shotgun if such rifle or shotgun is a large capacity weapon as defined in section 121.

(7) A firearm identification card shall be in a standard form provided by the executive director of the criminal history systems board and shall contain an identification number, name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and signature of the cardholder and shall be marked "Firearm Identification Card". If a firearm identification card is issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, such card shall clearly state that such card is valid for such limited purpose only. The application for such card shall be made in a standard form provided by the executive director of the criminal history systems board which shall require the applicant to affirmatively state, under the pains and penalties of perjury, that he is not disqualified on any of the grounds enumerated in clauses (i) to (ix), inclusive, from being issued such card.

(8) Any person who knowingly files an application containing false information shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than two years in a house of correction, or by both such fine and imprisonment.

Chap. 180

(9) A firearm identification card shall be valid, unless revoked or suspended, for a period of not more than four years from the date of issue and shall expire on the anniversary of the cardholder's date of birth occurring not less than three years but not more than four years from the date of issue. Any renewal thereof shall expire on the anniversary of the cardholder's date of birth occurring not less than three years but not more than four years from the effective date of such card. Any card issued to an applicant born on February 29 shall expire on March 1. The executive director of the criminal history systems board shall send by first class mail to the holder of each such firearm identification card, a notice of the expiration of such card not less than 90 days prior to such expiration, and shall enclose therein a form for the renewal of such card. The executive director of the criminal history systems board shall include in his notice all pertinent information relative to the penalties that may be imposed in the event that such firearm identification card is not renewed within the 90 days prior to expiration. The fee for such application shall be \$25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain one-half of such fee and the remaining portion shall be deposited into the Firearms Record Keeping Fund established under section 2SS of chapter 29; provided, however, that any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to such application fee.

(10) Any person over the age of 70 shall be exempt from the requirement of paying a renewal fee for a firearm identification card.

(11) A cardholder shall notify, in writing, the licensing authority that issued such card, the chief of police into whose jurisdiction such cardholder moves and the executive director of the criminal history systems board of any change of address. Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation or suspension of such card.

(12) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a non-large capacity rifle or shotgun whose firearm identification card issued under this section is invalid for the sole reason that it has expired, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of said section 10 of said chapter 269 shall not apply; provided, however, that the exemption from the provisions of said section 10 of said chapter 269 provided herein shall not apply if: (i) such firearm identification card has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such firearm identification card is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such firearm identification card has been denied. Any law enforcement officer who discovers a person to

Chap. 180

be in possession of a rifle or shotgun after such person's firearm identification card has expired or has been revoked or suspended solely for failure to give notice of a change of address shall confiscate any rifle or shotgun and such expired or suspended card then in possession, and such officer shall forward such card to the licensing authority by whom it was issued as soon as practicable. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspended card within one year of such confiscation or such weapon may be otherwise disposed of in accordance with the provisions of section 129D. Pending the issuance of a renewed firearm identification card, a receipt for the fee paid, after five days following issuance, shall serve as a valid substitute and any rifle or shotgun so confiscated shall be returned, unless the applicant is disqualified. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131 or 131F.

(13) Upon issuance of a firearm identification card under this section, the licensing authority shall forward a copy of such approved application and card to the executive director of the criminal history systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a firearm identification card under this section.

(14) Nothing in this section shall authorize the purchase, possession or transfer of any weapon, ammunition or feeding device that is, or in such manner that is, prohibited by state or federal law.

(15) The secretary of the executive office of public safety, or his designee, may promulgate regulations to carry out the purposes of this section.

SECTION 30. The third paragraph of section 129C of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- Failure to so report shall be cause for suspension or permanent revocation of such person's firearm identification card or license to carry firearms, or both, and shall be punished by a fine of not less than \$200 nor more than \$1,000 for a first offense and by a fine of not less than \$1,000 nor more than \$5,000 for a second offense.

SECTION 31. The fourth paragraph of said section 129C of said chapter 140, as so appearing, is hereby amended by striking out clause (j) and inserting in place thereof the following clause:-

(j) Any new resident moving into the commonwealth, any resident of the commonwealth returning after having been absent from the commonwealth for not less than 180 consecutive days or any resident of the commonwealth upon being released from active service with any of the armed services of the United States with respect to any firearm, rifle or shotgun and any ammunition therefor then in his possession, for 60 days after such release, return or entry into the commonwealth;.

SECTION 32. Said section 129C of said chapter 140, as so appearing, is hereby further amended by striking out clause (q).

SECTION 33. Said section 129C of said chapter 140, as so appearing, is hereby further amended by striking out, in line 131, the word "minor" and inserting in place thereof the following words:- person under the age of 21.

SECTION 34. Said section 129C of said chapter 140, as so appearing, is hereby further amended by inserting after the sixth paragraph the following paragraph:-

Nothing in this section shall permit the sale or transfer of any large capacity rifle or shotgun or large capacity feeding device therefor to any person not in possession of a Class A or Class B license to carry firearms issued under section 131, or of any large capacity firearm or large capacity feeding device therefor to any person not in possession of a Class A license to carry firearms issued under section 131.

SECTION 35. Said section 129C of said chapter 140, as so appearing, is hereby further amended by inserting after the word "sixty-nine", in line 139, the following words:- and, the possession of a firearm identification card issued under section 129B shall not entitle any person to possess any large capacity rifle or shotgun or large capacity feeding device therefor in violation of subsection (m) of said section 10 of said chapter 269.

SECTION 36. Section 129D of said chapter 140, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The licensing authority, after taking possession of any firearm, rifle, shotgun, machine gun or ammunition by any means, may transfer possession of such weapon for storage purposes to a federally and state licensed dealer of such weapons and ammunition who operates a bonded warehouse on the licensed premises that is equipped with a safe for the secure storage of firearms and a weapon box or similar container for the secure storage of other weapons and ammunition; provided, however, that the licensing authority shall not transfer to such dealer possession of any weapon that is or may be evidence in any current or pending criminal case concerning a violation of any general or special law, rule or regulation governing the use, possession or ownership of such weapon. Any such dealer that takes possession of a weapon under the provisions of this section shall: (i) inspect such weapon; (ii) issue to the owner a receipt indicating the make, model, caliber, serial number and condition of each weapon so received; and (iii) store and maintain all weapons so received in accordance with such regulations, rules or guidelines as the secretary of the executive office of public safety may establish under this section. The owner shall be liable to such dealer for reasonable storage charges and may dispose of any such weapon as provided under this section by transfer to a person lawfully permitted to purchase or take possession of such weapon.

SECTION 37. The second paragraph of said section 129D of said chapter 140, as so appearing, is hereby amended by adding the following sentence:- Any such weapon that is stored and maintained by a licensed dealer as provided under this section may be so auctioned at the direction of: (i) the licensing authority at the expiration of one year following initial surrender or delivery to such licensing authority; or (ii) the dealer then in possession, if the storage charges for such weapon have been in arrears for 90 days; provided, however, that in either case, title shall pass to the licensed dealer for the purpose of transferring ownership to the auctioneer; and provided further, that in either case, after deduction and payment for storage charges and all necessary costs associated with such surrender and transfer, all surplus proceeds, if any, shall be immediately returned to the owner of such weapon.

Chap. 180

SECTION 38. Section 130 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "firearm, rifle, shotgun, machine gun or ammunition" and inserting in place thereof the following words:- rifle, shotgun, machine gun or ammunition, or whoever sells or furnishes to any person under 21 years of age a firearm or large capacity rifle or shotgun or ammunition therefor.

SECTION 39. Said section 130 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 10 and 11, the words "five hundred nor more than one thousand dollars" and inserting in place thereof the following words:- \$1,000 nor more than \$10,000, or by imprisonment in a state prison for not more than ten years or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment.

SECTION 40. Said section 130 of said chapter 140, as so appearing, is hereby further amended by inserting after the word "shotgun", in line 17, the following words:- that is not a large capacity weapon.

SECTION 41. Said chapter 140 is hereby further amended by striking out section 131, as so appearing, and inserting in place thereof the following three sections:-

Section 131. All licenses to carry firearms shall be designated Class A or Class B, and the issuance and possession of any such license shall be subject to the following conditions and restrictions:

(a) A Class A license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) firearms, including large capacity firearms, and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of firearms as the licensing authority deems proper; and (ii) rifles and shotguns, including large capacity weapons, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as it deems proper. A violation of a restriction imposed by the licensing authority under the provisions of this paragraph shall be cause for suspension or revocation and shall, unless otherwise provided, be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

The colonel of state police may, after an investigation, grant a Class A license to a club or facility with an on-site shooting range or gallery, which club is incorporated under the laws of the commonwealth for the possession, storage and use of large capacity weapons, ammunition therefor and large capacity feeding devices for use with such weapons on the premises of such club; provided, however, that not less than one shareholder of such club shall be qualified and suitable to be issued such license; and provided further, that such large capacity weapons and ammunition feeding devices may be used under such Class A club license only by such members that possess a valid firearm identification card issued under section 129B or a valid Class A or Class B license to carry firearms, or by such other persons

that the club permits while under the direct supervision of a certified firearms safety instructor or club member who, in the case of a large capacity firearm, possesses a valid Class A license to carry firearms or, in the case of a large capacity rifle or shotgun, possesses a valid Class A or Class B license to carry firearms. Such club shall not permit shooting at targets that depict human figures, human effigies, human silhouettes or any human images thereof, except by public safety personnel performing in line with their official duties.

No large capacity weapon or large capacity feeding device shall be removed from the premises except for the purposes of: (i) transferring such firearm or feeding device to a licensed dealer; (ii) transporting such firearm or feeding device to a licensed gunsmith for repair; (iii) target, trap or skeet shooting on the premises of another club incorporated under the laws of the commonwealth and for transporting thereto; (iv) attending an exhibition or educational project or event that is sponsored by, conducted under the supervision of or approved by a public law enforcement agency or a nationally or state recognized entity that promotes proficiency in or education about semiautomatic weapons and for transporting thereto and therefrom; (v) hunting in accordance with the provisions of chapter 131; or (vi) surrendering such firearm or feeding device under the provisions of section 129D. Any large capacity weapon or large capacity feeding device kept on the premises of a lawfully incorporated shooting club shall, when not in use, be secured in a locked container, and shall be unloaded during any lawful transport. The clerk or other corporate officer of such club shall annually file a report with the colonel of state police and the executive director of the criminal history systems board listing all large capacity weapons and large capacity feeding devices owned or possessed under such license. The colonel of state police or his designee, shall have the right to inspect all firearms owned or possessed by such club upon request during regular business hours and said colonel may revoke or suspend a club license for a violation of any provision of this chapter or chapter 269 relative to the ownership, use or possession of large capacity weapons or large capacity feeding devices.

(b) A Class B license shall entitle a holder thereof to purchase, rent, lease, borrow, possess and carry: (i) non-large capacity firearms and feeding devices and ammunition therefor, for all lawful purposes, subject to such restrictions relative to the possession, use or carrying of such firearm as the licensing authority deems proper; provided, however, that a Class B license shall not entitle the holder thereof to carry or possess a loaded firearm in a concealed manner in any public way or place; and provided further, that a Class B license shall not entitle the holder thereof to possess a large capacity firearm, except under a Class A club license issued under this section or under the direct supervision of a holder of a valid Class A license at an incorporated shooting club or licensed shooting range; and (ii) rifles and shotguns, including large capacity rifles and shotguns, and feeding devices and ammunition therefor, for all lawful purposes; provided, however, that the licensing authority may impose such restrictions relative to the possession, use or carrying of large capacity rifles and shotguns as he deems proper. A violation of a restriction provided under this paragraph, or a restriction imposed by the licensing authority under the provisions of this paragraph, shall be cause for suspension or revocation and shall, unless otherwise provided,

be punished by a fine of not less than \$1,000 nor more than \$10,000; provided, however, that the provisions of section 10 of chapter 269 shall not apply to such violation.

A Class B license shall not be a valid license for the purpose of complying with any provision under this chapter governing the purchase, sale, lease, rental or transfer of any weapon or ammunition feeding device if such weapon is a large capacity firearm or if such ammunition feeding device is a large capacity feeding device for use with a large capacity firearm, both as defined in section 121.

(c) Either a Class A or Class B license shall be valid for the purpose of owning, possessing, purchasing and transferring non-large capacity rifles and shotguns, and for purchasing and possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate, consistent with the entitlements conferred by a firearm identification card issued under section 129B.

(d) Any person residing or having a place of business within the jurisdiction of the licensing authority or any person residing in an area of exclusive federal jurisdiction located within a city or town may submit to the licensing authority an application for a Class A or Class B license to carry firearms, or renewal of the same, which the licensing authority may issue if it appears that the applicant is a suitable person to be issued such license, and that the applicant has good reason to fear injury to his person or property, or for any other reason, including the carrying of firearms for use in sport or target practice only, subject to such restrictions expressed or authorized under this section, unless the applicant:

(i) has, in any state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances as defined in section 1 of chapter 94C;

(ii) has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such an illness in a manner that should prevent such applicant from possessing a firearm;

(iii) is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, and such applicant may make application for such license after the expiration of five years from the date of such confinement or treatment and upon presentment of an affidavit issued by such physician stating that such physician knows the applicant's history of treatment and that in such physician's opinion the applicant is deemed cured;

(iv) is at the time of the application less than 21 years of age;

(v) is an alien;

(vi) is currently subject to: (A) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction; or

(vii) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

(e) Within seven days of the receipt of a completed application for a license to carry or possess firearms, or renewal of same, the licensing authority shall forward one copy of the application and one copy of the applicant's fingerprints to the colonel of state police, who shall within 30 days advise the licensing authority, in writing, of any disqualifying criminal record of the applicant arising from within or without the commonwealth and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons from possessing a license to carry or possess firearms. In searching for any disqualifying history of the applicant, the colonel shall utilize, or cause to be utilized, files maintained by the department of probation and statewide and nationwide criminal justice, warrant and protection order information systems and files including, but not limited to, the National Instant Criminal Background Check System. The colonel shall inquire of the commissioner of the department of mental health relative to whether the applicant is disqualified from being so licensed. If the information available to the colonel does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law, he shall certify such fact, in writing, to the licensing authority within said 30 day period.

The licensing authority may also make inquiries concerning the applicant to: (i) the executive director of the criminal history systems board relative to any disqualifying condition and records of purchases, sales, rentals, leases and transfers of weapons or ammunition concerning the applicant; (ii) the commissioner of probation relative to any record contained within the department of probation or the statewide domestic violence record keeping system concerning the applicant; and (iii) the commissioner of the department of mental health relative to whether the applicant is a suitable person to possess firearms or is not a suitable person to possess firearms. The director or commissioner to whom the licensing authority makes such inquiry shall provide prompt and full cooperation for that purpose in any investigation of the applicant.

The licensing authority shall, within 40 days from the date of application, either approve the application and issue the license or deny the application and notify the applicant of the reason for such denial in writing; provided, however, that no such license shall be issued unless the colonel has certified, in writing, that the information available to him does not indicate that the possession of a firearm or large capacity firearm by the applicant would be in violation of state or federal law.

(f) A license issued under this section shall be revoked or suspended by the licensing authority, or his designee, upon the occurrence of any event that would have disqualified the

holder from being issued such license or from having such license renewed. A license may be revoked or suspended by the licensing authority if it appears that the holder is no longer a suitable person to possess such license. Any revocation or suspension of a license shall be in writing and shall state the reasons therefor. Upon revocation or suspension, the licensing authority shall take possession of such license and the person whose license is so revoked or suspended shall take all actions required under the provisions of section 129D. No appeal or post-judgment motion shall operate to stay such revocation or suspension. Notices of revocation and suspension shall be forwarded to the executive director of the criminal history systems board and the commissioner of probation and shall be included in the criminal justice information system. A revoked or suspended license may be reinstated only upon the termination of all disqualifying conditions, if any.

Any applicant or holder aggrieved by a denial, revocation or suspension of a license, unless a hearing has previously been held pursuant to chapter 209A, may, within either 90 days after receiving notice of such denial, revocation or suspension or within 90 days after the expiration of the time limit during which the licensing authority is required to respond to the applicant, file a petition to obtain judicial review in the district court having jurisdiction in the city or town wherein the applicant filed for, or was issued, such license. A justice of such court, after a hearing, may direct that a license be issued or reinstated to the petitioner if such justice finds that there was no reasonable ground for denying, suspending or revoking such license and that the petitioner is not prohibited by law from possessing same.

(g) A license shall be in a standard form provided by the executive director of the criminal history systems board and shall contain a license number which shall clearly indicate whether such number identifies a Class A or Class B license, the name, address, photograph, fingerprint, place and date of birth, height, weight, hair color, eye color and signature of the licensee. Such license shall be marked "License to Carry Firearms" and shall clearly indicate whether the license is Class A or Class B. The application for such license shall be made in a standard form provided by the executive director of the criminal history systems board, which form shall require the applicant to affirmatively state under the pains and penalties of perjury that such applicant is not disqualified on any of the grounds enumerated above from being issued such license.

(h) Any person who knowingly files an application containing false information shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than two years in a house of correction, or by both such fine and imprisonment.

(i) A license to carry or possess firearms shall be valid, unless revoked or suspended, for a period of not more than four years from the date of issue and shall expire on the anniversary of the licensee's date of birth occurring not less than three years but not more than four years from the date of issue. Any renewal thereof shall expire on the anniversary of the licensee's date of birth occurring not less than three years but not more than four years

from the effective date of such license. Any license issued to an applicant born on February 29 shall expire on March 1. The fee for such application shall be \$25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial; provided, however, that the licensing authority shall retain one-half of such fee and the remaining portion shall be deposited into the Firearms Record Keeping Fund established under section 2SS of chapter 29.

Any person over the age of 70 shall be exempt from the requirement of paying a renewal fee for a Class A or Class B license to carry.

(j) No license shall be required for the carrying or possession of a firearm known as a detonator and commonly used on vehicles as a signaling and marking device, when carried or possessed for such signaling or marking purposes.

(k) Whoever knowingly issues a license in violation of this section shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than two years in a jail or house of correction, or by both such fine and imprisonment.

(l) The executive director of the criminal history systems board shall send by first class mail to the holder of each such license to carry firearms, a notice of the expiration of such license not less than 90 days prior to such expiration and shall enclose therein a form for the renewal of such license. The taking of fingerprints shall not be required in issuing the renewal of a license if the renewal applicant's fingerprints are on file with the department of the state police. Any licensee shall notify, in writing, the licensing authority who issued said license, the chief of police into whose jurisdiction the licensee moves and the executive director of the criminal history systems board of any change of address. Such notification shall be made by certified mail within 30 days of its occurrence. Failure to so notify shall be cause for revocation or suspension of said license.

(m) Notwithstanding the provisions of section 10 of chapter 269, any person in possession of a firearm, rifle or shotgun whose license issued under this section is invalid for the sole reason that it has expired, but who shall not be disqualified from renewal upon application therefor under this section, shall be subject to a civil fine of not less than \$500 nor more than \$5,000 and the provisions of section 10 of chapter 269 shall not apply if: (i) such license has been revoked or suspended, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; (ii) revocation or suspension of such license is pending, unless such revocation or suspension was caused by failure to give notice of a change of address as required under this section; or (iii) an application for renewal of such license has been denied. Any law enforcement officer who discovers a person to be in possession of a firearm, rifle or shotgun after such person's license has expired, has been revoked or suspended, solely for failure to give notice of a change of address, shall confiscate such firearm, rifle or shotgun and the expired or suspended license then in possession and such officer, shall forward such license to the licensing authority by whom it was issued as soon as practicable. Any confiscated weapon shall be returned to the owner upon the renewal or reinstatement of such expired or suspend-

ed license within one year of such confiscation or may be otherwise disposed of in accordance with the provisions of section 129D. The provisions of this paragraph shall not apply if such person has a valid license to carry firearms issued under section 131F.

(n) Upon issuance of a license to carry or possess firearms under this section, the licensing authority shall forward a copy of such approved application and license to the executive director of the criminal history systems board, who shall inform the licensing authority forthwith of the existence of any disqualifying condition discovered or occurring subsequent to the issuance of a license under this section.

(o) No person shall be issued a license to carry or possess a machine gun in the commonwealth, except that a licensing authority may issue a machine gun license to:

(i) a firearm instructor certified by the criminal justice training council for the sole purpose of firearm instruction to police personnel;

(ii) a bona fide collector of firearms upon application or upon application for renewal of such license.

(p) The executive director of the criminal history systems board shall promulgate regulations in accordance with chapter 30A to establish criteria for persons who shall be classified as bona fide collectors of firearms.

(q) Nothing in this section shall authorize the purchase, possession or transfer of any weapon, ammunition or feeding device that is, or in such manner that is, prohibited by state or federal law.

(r) The secretary of the executive office of public safety or his designee may promulgate regulations to carry out the purposes of this section.

Section 131½. The governor shall appoint a gun control advisory board, hereinafter referred to as the board. The board shall consist of seven individuals, one of whom shall be a member of the gun owners action league, one of whom shall be a police chief selected from a list of four selected by the police chiefs association and one of whom shall be the director of the firearms record bureau within the criminal history systems board. It shall be the responsibility of the board to advise the executive office of public safety on matters relating to the implementation of sections 121 to 131P, inclusive, of chapter 140 of the General Laws and section 2SS of chapter 29 of the General Laws. The board shall serve without compensation and shall adopt operating rules and procedures for its organization and activities.

Section 131¾. The secretary of the executive office of public safety shall, with the advice of the gun control advisory board established pursuant to the provisions of section 131½, compile and publish a roster of large capacity rifles, shotguns, firearms, and feeding devices, all as defined in section 121 of chapter 140 of the General Laws, and of such weapons referred to in clauses Eighteenth to Twenty-first of section 123 of said chapter 140.

The secretary shall, not less than three times annually, publish the roster in newspapers of general circulation throughout the commonwealth, and shall send a copy thereof to all dealers licensed in the commonwealth under the provisions of said section 122 of said chapter 140; and further, the licensing authority shall furnish said roster to all cardholders and licensees upon initial issuance and upon every renewal of the same.

The secretary may amend the roster upon his own initiative or with the advice of said board. A person may petition the secretary to place a weapon on, or remove a weapon from, the roster, subject to the provisions of this section. A person who so petitions shall give the reasons why the roster should be so amended.

A petition to amend the roster shall be submitted in writing to the secretary and shall be in the form and manner prescribed by the secretary. Upon receipt of the petition to place a weapon on the roster, the secretary shall, within 45 days of receipt of the petition, either notify the petitioner by certified mail that the petition is denied, or it shall modify the roster. An addition to the roster shall be effective on the date it is included in the next publication in newspapers of general circulation as provided under this section.

The secretary may promulgate rules and regulations relative to the appeal of a decision on a petition to modify the roster and any other regulations consistent with the provisions of this section and section 2SS of chapter 29, sections 11 and 14 of chapter 131, sections 121, 122, 122B, 123, 128, 128A, 128B, 129B, 129C, 129D, 130, 131, 131A, 131E, 131F and 131K of chapter 140 to effectuate the purposes of each said section.

SECTION 42. The first paragraph of section 131A of said chapter 140, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- The licensing authority may impose such restrictions relative to the caliber and capacity of the firearm to be purchased, rented or leased as he deems proper.

SECTION 43. Said section 131A of said chapter 140, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The fee for such permits shall be \$25, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial; provided, however, that the licensing authority shall retain one-half of such fee and the remaining portion shall be deposited in the Firearms Record Keeping Fund established under section 2SS of chapter 29.

SECTION 44. Said chapter 140 is hereby further amended by striking out section 131C, as so appearing, and inserting in place thereof the following section:-

Section 131C. (a) No person carrying a loaded firearm under a Class A license issued under section 131 or 131F shall carry the same in a vehicle unless such firearm while carried therein is under the direct control of such person. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(b) No person carrying a firearm under a Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of \$500.

(c) No person possessing a large capacity rifle or shotgun under a Class A or Class B license issued under section 131 or 131F shall possess the same in a vehicle unless such weapon is unloaded and contained within the locked trunk of such vehicle or in a locked case or other secure container. Whoever violates the provisions of this subsection shall be punished by a fine of not less than \$500 nor more than \$5,000.

(d) The provisions of this section shall not apply to (i) any officer, agent or employee of the commonwealth or any state or the United States; (ii) any member of the military or other service of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.

(e) A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the licensing authority who shall immediately revoke the card or license of the person so convicted. No new such card or license may be issued to any such person until one year after the date of revocation.

SECTION 45. Section 131E of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following paragraph:-

Any resident of the commonwealth may purchase firearms, rifles, shotguns and ammunition feeding devices from any dealer licensed under section 122, or from such person as shall be qualified under section 128A, or ammunition from a licensee under section 122B, subject to the following conditions and restrictions:

(a) rifles, shotguns and feeding devices therefor may be so purchased only upon presentment of: (i) a valid firearm identification card issued under section 129B; or (ii) a valid Class A or Class B license to carry firearms issued under section 131; or (iii) valid proof of exempt status under section 129C; provided, however, that large capacity rifles and shotguns and large capacity feeding devices therefor may be so purchased only upon presentment of a Class A or Class B license to carry firearms issued under said section 131; and provided further, that no rifle or shotgun or ammunition or ammunition feeding device therefor shall be sold to any person less than 18 years of age; and provided further, that no large capacity rifle or shotgun or large capacity feeding device therefor shall be sold to any person less than 21 years of age;

(b) firearms and feeding devices therefor may be so purchased only upon presentment of: (i) a valid Class A or Class B license to carry firearms issued under section 131; or (ii) a valid firearm identification card issued under section 129B together with a valid permit to purchase a firearm issued under section 131A; or (iii) a valid permit to purchase a firearm issued under section 131A together with valid proof of exempt status under section 129C; provided, however, that large capacity firearms and large capacity feeding devices therefor may be so purchased only upon presentment of: (i) a valid Class A license to carry firearms issued under section 131; or (ii) a valid firearm identification card issued under section 129B together with a valid and proper permit to purchase a firearm issued under section 131A; or (iii) a valid and proper permit to purchase a firearm issued under section 131A together with valid proof of exempt status under section 129C; and provided further, that neither a firearm identification card issued under section 129B, nor proof of exempt status under section 129C, shall be valid for the purpose of purchasing any firearm or ammunition feeding device therefor without being presented together with a valid and proper permit to purchase issued

under section 131A; and provided further, that an alien permit to possess a rifle or shotgun shall not be valid for the purpose of purchasing firearms or ammunition or ammunition feeding devices therefor; and provided further, that no firearm or ammunition or ammunition feeding device therefor shall be sold to any person less than 21 years of age.

SECTION 46. Section 131F of said chapter 140, as so appearing, is hereby amended by striking out the first to fourth sentences, inclusive, and inserting in place thereof the following words:-

A Class A or Class B temporary license to carry firearms or feeding devices or ammunition therefor, within the commonwealth, may be issued by the colonel of state police, or persons authorized by him, to a nonresident or any person not falling within the jurisdiction of a local licensing authority or to an alien that resides outside the commonwealth for purposes of firearms competition and subject to such terms and conditions as said colonel may deem proper; provided, however, that no license shall be issued to a person who:

(i) has, in any state or federal jurisdiction, been convicted or adjudicated a youthful offender or delinquent child for the commission of (a) a felony; (b) a misdemeanor punishable by imprisonment for more than two years; (c) a violent crime as defined in section 121; (d) a violation of any law regulating the use, possession, ownership, transfer, purchase, sale, lease, rental, receipt or transportation of weapons or ammunition for which a term of imprisonment may be imposed; or (e) a violation of any law regulating the use, possession or sale of controlled substances, as defined in section 1 of chapter 94C;

(ii) has been confined to any hospital or institution for mental illness, unless the applicant submits with his application an affidavit of a registered physician attesting that such physician is familiar with the applicant's mental illness and that in such physician's opinion the applicant is not disabled by such an illness in a manner that should prevent such applicant from possessing a firearm;

(iii) is or has been under treatment for or confinement for drug addiction or habitual drunkenness, unless such applicant is deemed to be cured of such condition by a licensed physician, and such applicant may make application for said license after the expiration of five years from the date of such confinement or treatment and upon presentment of an affidavit issued by such physician stating that such physician knows the applicant's history of treatment and that in such physician's opinion the applicant is deemed cured;

(iv) is currently subject to: (A) an order for suspension or surrender issued pursuant to section 3B or 3C of chapter 209A or a similar order issued by another jurisdiction; or (B) a permanent or temporary protection order issued pursuant to chapter 209A or a similar order issued by another jurisdiction; or

(v) is currently the subject of an outstanding arrest warrant in any state or federal jurisdiction.

Such license shall be valid for a period of one year but the colonel may renew such license, if in his discretion, such renewal is necessary.

The colonel may also issue such license, subject to such terms and conditions as he deems proper, to any resident of the commonwealth for the purposes of sports competition.

A temporary license issued under this section shall be marked "Temporary License to Carry Firearms", shall clearly indicate whether it is Class A or Class B and shall not be used to purchase firearms in the commonwealth as provided under section 131E. Neither a large capacity firearm nor large capacity feeding device therefor may be carried unless such person has been issued a Class A license; provided, however, that the colonel may permit a Class A or Class B licensee to possess large capacity rifles or shotguns or both, and such entitlement shall be clearly indicated on such license. The fee for such license shall be \$50, which fee shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial; provided, however, that such fee shall be deposited in the Firearms Record Keeping Fund, established under section 2SS of chapter 29.

SECTION 47. Said chapter 140 is hereby further amended by inserting after section 131J the following six sections:-

Section 131K. Any firearm or large capacity weapon, both as defined in section 121, sold within the commonwealth without a safety device designed to prevent the discharge of such weapon by unauthorized users and approved by the colonel of state police including, but not limited to, mechanical locks or devices designed to recognize and authorize, or otherwise allow the firearm to be discharged only by its owner or authorized user, by solenoid use-limitation devices, key activated or combination trigger or handle locks, radio frequency tags, automated fingerprint identification systems or voice recognition, provided, that such device is commercially available, shall be defective and the sale of such a weapon shall constitute a breach of warranty under section 2-314 of chapter 106 and an unfair or deceptive trade act or practice under section 2 of chapter 93A. Any entity responsible for the manufacture, importation or sale as an inventory item or consumer good, both as defined in section 9-109 of chapter 106, of such a weapon that does not include or incorporate such a device shall be individually and jointly liable to any person who sustains personal injury or property damage resulting from the failure to include or incorporate such a device. If death results from such personal injury, such entities shall be liable in an amount including, but not limited to, that provided under chapter 229. Contributory or comparative negligence shall not be valid defenses to an action brought under this section in conjunction with section 2 of chapter 93A or section 2-314 of chapter 106 or both; provided, however, that nothing herein shall prohibit such liable parties from maintaining an action for indemnification or contribution against each other or against the lawful owner or other authorized user of said weapon. Any disclaimer, limit or waiver of the liability provided under this section shall be void.

No entity responsible for the manufacture, importation or sale of such a weapon shall be liable to any person for injuries caused by the discharge of such weapon that does not include or incorporate a safety device as required under this section if such injuries were: (i) self-inflicted, either intentionally or unintentionally, unless such injuries were self-inflicted

Chap. 180

by a person less than 18 years of age; (ii) inflicted by the lawful owner or other authorized user of said weapon; (iii) inflicted by any person in the lawful exercise of self-defense; or (iv) inflicted upon a co-conspirator in the commission of a crime.

This section shall not apply to any weapon distributed to an officer of any law enforcement agency or any member of the armed forces of the United States or the organized militia of the commonwealth; provided, however, that such person is authorized to acquire, possess or carry such a weapon for the lawful performance of his official duties; and provided further, that any such weapon so distributed is distributed solely for use in connection with such duties.

Section 131L. (a) It shall be unlawful to store or keep any firearm, rifle or shotgun including, but not limited to, large capacity weapons, or machine gun in any place unless such weapon is secured in a locked container or equipped with a tamper-resistant mechanical lock or other safety device, properly engaged so as to render such weapon inoperable by any person other than the owner or other lawfully authorized user. For purposes of this section, such weapon shall not be deemed stored or kept if carried by or under the control of the owner or other lawfully authorized user.

(b) A violation of this section shall be punished, in the case of a firearm, rifle or shotgun that is not a large capacity weapon, by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment, and in the case of a large capacity weapon or machine gun, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.

(c) A violation of this section shall be punished, in the case of a rifle or shotgun that is not a large capacity weapon and such weapon was stored or kept in a place where a person under the age of 18 who does not possess a valid firearm identification card issued under section 129B may have access without committing an unforeseeable trespass, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment.

(d) A violation of this section shall be punished, in the case of a rifle or shotgun that is a large capacity weapon, firearm or machine gun was stored or kept in a place where a person under the age of 18 may have access, without committing an unforeseeable trespass, by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not less than two and one-half years, nor more than ten years, or by both such fine and imprisonment.

(e) A violation of the provisions of this section shall be evidence of wanton or reckless conduct in any criminal or civil proceeding if a person under the age of 18 who was not a trespasser or was a foreseeable trespasser acquired access to a weapon, unless such person possessed a valid firearm identification card issued under section 129B and was permitted by law to possess such weapon, and such access results in the personal injury to or the death of any person.

Section 131M. No person shall sell, offer for sale, transfer or possess an assault weapon or a large capacity feeding device that was not otherwise lawfully possessed on Sep-

tember 13, 1994. Whoever not being licensed under the provisions of section 122 violates the provisions of this section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.

The provisions of this section shall not apply to: (i) the possession by a law enforcement officer for purposes of law enforcement; or (ii) the possession by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving such a weapon or feeding device from such agency upon retirement.

Section 131N. No person shall sell, offer for sale, transfer or possess any weapon, capable of discharging a bullet or shot, that is: (i) constructed in a shape that does not resemble a handgun, short-barreled rifle or short-barreled shotgun including, but not limited to, covert weapons that resemble key-chains, pens, cigarette-lighters or cigarette-packages; or (ii) not detectable as a weapon or potential weapon by x-ray machines commonly used at airports or walk-through metal detectors. Whoever violates the provisions of this section shall be punished, for a first offense, by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and for a second offense, by a fine of not less than \$5,000 nor more than \$15,000 or by imprisonment for not less than five years nor more than 15 years, or by both such fine and imprisonment.

Section 131O. Notwithstanding any general or special law, rule or regulation to the contrary, the colonel of state police, in conjunction with the secretary of the executive office of public safety, shall promulgate rules and regulations implementing a statewide firearms surrender program. In conjunction with this program only, any citizen of the commonwealth who complies with the policies set forth by the colonel shall not be asked for identification and shall be immune from prosecution for possession of such firearm; provided, however, that nothing herein shall prohibit the prosecution of any person for the unlawful possession of a firearm who is not in compliance with the conditions and procedures established by the colonel; and provided further, that nothing herein shall prohibit the prosecution of any person for any other offense committed within the commonwealth.

Any firearm surrendered in accordance with the provisions of this program that is reported stolen shall be returned to its lawful owner; provided, however, that any firearm suspected to be evidence in a crime shall remain in the custody and control of the department of state police in the same manner as any other such firearm lawfully seized by the department of state police. The department of state police may test-fire and preserve any and all firearms voluntarily surrendered. All weapons that have been voluntarily surrendered that are not suspected to be evidence of criminal activity and have not been reported stolen shall be disposed of in accordance with procedures established by the colonel.

Section 131P. (a) Any person making application for the issuance of a firearms identification card under section 129B, a Class A or Class B license to carry firearms under section 131 or 131F, or a permit to purchase under section 131A, who was not licensed

under the provisions of this chapter on June 1, 1998, shall, in addition to the requirements set forth in said sections 129B, 131, 131A or 131F submit to the licensing authority a basic firearms safety certificate; provided, however, that a certificate issued by the division of fisheries and wildlife pursuant to the provisions of section 14 of chapter 131, evidencing satisfactory completion of a hunting safety course, shall serve as a valid substitute for a basic firearms safety certificate required under this section; and provided further, that any applicant for a firearm identification card for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be required to complete any basic firearms safety course as a prerequisite for receiving such card. Persons lawfully possessing a firearm identification card or license to carry firearms on June 1, 1998 shall be exempt from the provisions of this section upon expiration of such card or license and when applying for licensure as required under this chapter. No application for the issuance of a firearm identification card or license to carry shall be accepted or processed by the licensing authority without such certificate attached thereto; provided, however, that the provisions of this section shall not apply to (i) any officer, agent or employee of the commonwealth or any state of the United States; (ii) any member of the military or other service of any state or of the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to carry or possess the weapon so carried or possessed and is acting within the scope of his duties.

(b) The colonel of state police shall promulgate rules and regulations governing the issuance and form of basic firearms safety certificates required by this section. Said colonel shall certify certain persons as firearms safety instructors and shall certify safety course curriculum. Such certification shall be for a period of ten years, unless sooner revoked by reason of unsuitability, in the discretion of said colonel. The department of state police may impose a fee of \$50 for initial issuance of such certification to offset the cost of certifying instructors. The fee for certification renewal shall be \$10. Firearms safety instructors shall be any person certified by a nationally recognized organization that fosters safety in firearms, or any other person in the discretion of said colonel, to be competent to give instruction in a basic firearms safety course. Applicants for certification as instructors under the provisions of this section shall not be exempt from the requirements of this chapter or any other law or regulation of the commonwealth or the United States. Upon application to the colonel of state police, said colonel may, in his discretion, certify as a firearms safety instructor any person who operates a firearms safety course or program which provides in its curriculum: (a) the safe use, handling and storage of firearms; (b) methods for securing and childproofing firearms; (c) the applicable laws relating to the possession, transportation and storage of firearms; and (d) knowledge of operation, potential dangers and basic competency in the ownership and usage of firearms.

(c) Any firearms safety instructor certified under the provisions of this section may, in his discretion, issue a basic firearms safety certificate to any person who successfully completes the requirements of a basic firearms safety course approved by the colonel. No

firearms safety instructor shall issue or cause to be issued any basic firearms safety certificate to any person who fails to meet minimum requirements of the prescribed course of study including, but not limited to, demonstrated competency in the use of firearms. Instructors certified under the provisions of this section shall forward to the department of state police the names of those persons who have received basic firearms safety certificates. Local licensing authorities, as defined in section 121, shall, upon receipt of an application for a firearm identification card or a Class A or Class B license to carry firearms, make inquiry to the department of state police to confirm the issuance to the applicant of a basic firearms safety certificate.

(d) Any person applying for licensure under the provisions of this chapter who knowingly files or submits a basic firearms safety certificate to a licensing authority which contains false information shall be punished by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment for not more than two years in a house of correction, or by both such fine and imprisonment.

(e) Any firearms safety instructor who knowingly issues a basic firearms safety certificate to a person who has not successfully completed a firearms safety course approved by the colonel shall be punished by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for not more than two years in a house of correction, or by both such fine and imprisonment.

SECTION 48. Section 3B of chapter 209A of the General Laws, as so appearing, is hereby amended by inserting after the word "chapter", in line 11, the following words:- and, said law enforcement official may store, transfer or otherwise dispose of any such weapon in accordance with the provisions of section 129D of chapter 140; provided however, that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other than a licensed dealer.

SECTION 49. Said chapter 209A is hereby further amended by striking out section 3C, as so appearing, and inserting in place thereof the following section:-

Section 3C. Upon the continuation or modification of an order issued pursuant to section 4 or upon petition for review as described in section 3B, the court shall also order or continue to order the immediate suspension and surrender of a defendant's license to carry firearms, including a Class A or Class B license, and firearms identification card and the surrender of all firearms, rifles, shotguns, machine guns or ammunition which such defendant then controls, owns or possesses if the court makes a determination that the return of such license to carry firearms, including a Class A or Class B license, and firearm identification card or firearms, rifles, shotguns, machine guns or ammunition presents a likelihood of abuse to the plaintiff. A suspension and surrender order issued pursuant to this section shall continue so long as the restraining order to which it relates is in effect; and, any law enforcement official to whom such weapon is surrendered may store, transfer or otherwise dispose of any such weapon in accordance with the provisions of section 129D of chapter 140; provided, however, that nothing herein shall authorize the transfer of any weapons surrendered by the defendant to anyone other than a licensed dealer. Any violation of such order shall be punishable by a fine of not more than \$5,000 or by imprisonment for

Chap. 180

not more than two and one-half years in a house of correction or by both such fine and imprisonment.

SECTION 50. Section 17 of chapter 265 of the General Laws, as so appearing, is hereby amended by adding the following two sentences:- Whoever commits any offense described herein while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Any person who commits a subsequent offense while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than 15 years.

SECTION 51. The first paragraph of subsection (a) of section 18 of said chapter 265, as so appearing, is hereby amended by adding the following sentence:- Whoever commits any offense described herein while armed with a firearm, shotgun, rifle, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than ten years.

SECTION 52. The second paragraph of said subsection (a) of said section 18 of said chapter 265, as so appearing, is hereby amended by adding the following sentence:- Whoever, after having convicted of the crime of assault upon a person 60 years or older with intent to rob or murder while armed with a firearm, shotgun, rifle, machine gun or assault weapon commits a second or subsequent such crime shall be punished by imprisonment in the state prison for not less than 20 years.

SECTION 53. Subsection (b) of said section 18 of said chapter 265, as so appearing, is hereby amended by adding the following sentence:- Whoever, being armed with a firearm, shotgun, rifle, machine gun or assault weapon assaults another with intent to rob or murder shall be punished by imprisonment in state prison for not less than five years and not more than 20 years.

SECTION 54. Section 18A of said chapter 265, as so appearing, is hereby amended by striking out, in line 5, the word "section" and inserting in place thereof the following word:- paragraph.

SECTION 55. Said section 18A of said chapter 265, as so appearing, is hereby further amended by adding the following paragraph:-

Whoever, being armed with a dangerous weapon defined as a firearm, shotgun, rifle or assault weapon, enters a dwelling house and while therein assaults another with intent to commit a felony shall be punished by imprisonment in the state prison for a term of not less than ten years. Such person shall not be eligible for parole prior to the expiration of ten years.

SECTION 56. Said chapter 265 is hereby further amended by striking out section 18B, as so appearing, and inserting in place thereof the following section:-

Section 18B. Whoever, while in the commission of or the attempted commission of an offense which may be punished by imprisonment in the state prison, has in his possession or under his control a firearm, rifle or shotgun shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than five years; provided,

however, that if such firearm, rifle or shotgun is a large capacity weapon, as defined in section 121 of chapter 140, or if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, as defined in said section 121, such person shall be punished by imprisonment in the state prison for not less than ten years. Whoever has committed an offense which may be punished by imprisonment in the state prison and had in his possession or under his control a firearm, rifle or shotgun including, but not limited to, a large capacity weapon or machine gun and who thereafter, while in the commission or the attempted commission of a second or subsequent offense which may be punished by imprisonment in the state prison, has in his possession or under his control a firearm, rifle or shotgun shall, in addition to the penalty for such offense, be punished by imprisonment in the state prison for not less than 20 years; provided, however, that if such firearm, rifle or shotgun is a large capacity semiautomatic weapon or if such person, while in the commission or attempted commission of such offense, has in his possession or under his control a machine gun, such person shall be punished by imprisonment in the state prison for not less than 25 years.

A sentence imposed under this section for a second or subsequent offense shall not be reduced nor suspended, nor shall any person convicted under this section be eligible for probation, parole, furlough or work release or receive any deduction from his sentence for good conduct until he shall have served the minimum term of such additional sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this section.

SECTION 57. Section 18C of said chapter 265, as so appearing, is hereby amended by inserting after the first sentence, the following three sentences:- Whoever commits said crime while being armed with a firearm, shotgun, rifle, machine-gun, or assault weapon shall be punished by imprisonment in the state prison for 20 years. Said sentence shall not be reduced to less than ten years nor shall the person convicted be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct; provided however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of next of kin or spouse; to visit a critically ill close relative or spouse; or to obtain emergency medical services unavailable at such institution. The provisions of section 87 of

chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this subsection.

SECTION 58. Section 21A of said chapter 265, as so appearing, is hereby amended by adding the following sentence:- Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine gun or assault weapon, shall be punished by imprisonment in the state prison for not less than five years in state prison.

SECTION 59. Subsection (b) of section 22 of said chapter 265, as so appearing, is hereby amended by inserting after the word "years", in line 26, the following paragraph:-

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine-gun or assault weapon, shall be punished by imprisonment in the state prison for not less than ten years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

SECTION 60. Section 22A of said chapter 265, as so appearing, is hereby amended by adding the following paragraph:-

Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be sentenced to the state prison for life or for any term of years, but not less than ten years. Whoever over the age of 18 commits a second or subsequent such offense shall be sentenced to the state prison for life or for any term of years, but not less than 20 years.

SECTION 61. Section 24 of said chapter 265, as so appearing, is hereby amended by inserting after the word "years.", in line 6, the following two sentences:- Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years. Whoever commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years.

SECTION 62. Section 24B of said chapter 265, as so appearing, is hereby amended by adding the following paragraph:-

Whoever commits any offense described in this section while being armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for life or for any term of years, but not less than ten years. Whoever over the age of 18 commits a second or subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years.

SECTION 63. Section 26 of said chapter 265, as so appearing, is hereby amended by adding the following two paragraphs:-

Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than ten years or in the house of correction for not more than two and one-half years. The provisions of the preceding sentence shall not apply to the parent of a child under 18 years of age who takes custody of such child. Whoever commits such offense

described in this section while being armed with a firearm, rifle, shotgun, machine gun or assault weapon with the intent to extort money or other valuable thing thereby shall be punished by imprisonment in the state prison for life or for any term of years but not less than 20 years.

Whoever commits any offense described in this section while armed with a dangerous weapon and inflicts serious bodily injury thereby upon another person or who sexually assaults such person shall be punished by imprisonment in the state prison for not less than 25 years. For purposes of this paragraph the term "serious bodily injury" shall mean bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ or substantial risk of death. For purposes of this paragraph, the term "sexual assault" shall mean the commission of any act set forth in sections 13B, 13F, 13H, 22, 22A, 23, 24 or 24B.

SECTION 64. The first paragraph of subsection (b) of section 39 of said chapter 265, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- Whoever commits any offense described in this subsection while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not more than ten years or in the house of correction for not more than two and one-half years.

SECTION 65. Section 14 of chapter 266 of the General Laws, as so appearing, is hereby amended by inserting after the word "years.", in line 8, the following paragraph:-

Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 15 years. Whoever commits a subsequent such offense shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 20 years.

SECTION 66. Section 17 of said chapter 266, as so appearing, is hereby amended by adding the following sentence:- Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years or in the house of correction for not more than two and one-half years.

SECTION 67. Section 18 of said chapter 266, as so appearing, is hereby amended by adding the following sentence:- Whoever commits any offense described in this section while armed with a firearm, rifle, shotgun, machine gun or assault weapon shall be punished by imprisonment in the state prison for not less than five years or by imprisonment in the house of correction for not more than two and one-half years.

SECTION 68. Paragraph (c) of section 10 of chapter 269 of the General Laws, as so appearing, is hereby amended by striking out, in lines 97 to 100, inclusive, the words "without being the holder of a valid license to carry firearms issued in accordance with the provisions of said section one hundred and thirty-one of said chapter one hundred and forty,".

SECTION 69. Said section 10 of said chapter 269, as so appearing, is hereby further amended by striking out paragraph (h) and inserting in place thereof the following paragraph:-

(h) Whoever owns, possesses or transfers possession of a firearm, rifle, shotgun or ammunition without complying with the requirements relating to firearm identification cards as provided in section 129C of chapter 140 shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than \$500. A second violation of this paragraph shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than \$1,000 or both. A person committing a violation of this subsection may be arrested without a warrant by any officer authorized to make arrests.

SECTION 70. Said section 10 of said chapter 269, as so appearing, is hereby further amended by adding the following subsection:-

(m) Notwithstanding the provisions of paragraph (a) or (h), any person not exempted by statute who knowingly has in his possession, or knowingly has under his control in a vehicle, a large capacity weapon or large capacity feeding device therefor who does not possess a valid Class A or Class B license to carry firearms issued under section 131 or 131F of chapter 140, except as permitted or otherwise provided under this section or chapter 140, shall be punished by imprisonment in a state prison for not less than two and one-half years nor more than ten years. The possession of a valid firearm identification card issued under section 129B shall not be a defense for a violation of this subsection; provided, however, that any such person charged with violating this paragraph and holding a valid firearm identification card shall not be subject to any mandatory minimum sentence imposed by this paragraph. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he shall have served such minimum term of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this section.

The provisions of this paragraph shall not apply to the possession of a large capacity weapon or large capacity feeding device by (i) any officer, agent or employee of the commonwealth or any other state or the United States, including any federal, state or local

law enforcement personnel; (ii) any member of the military or other service of any state or the United States; (iii) any duly authorized law enforcement officer, agent or employee of any municipality of the commonwealth; (iv) any federal, state or local historical society, museum or institutional collection open to the public; provided, however, that any such person described in clauses (i) to (iii), inclusive, is authorized by a competent authority to acquire, possess or carry a large capacity semiautomatic weapon and is acting within the scope of his duties; or (v) any gunsmith duly licensed under the applicable federal law.

SECTION 71. Said chapter 269 is hereby further amended by inserting after section 10E the following three sections:-

Section 10F. (a) Any person who sells, keeps for sale, or offers or exposes for sale, gives or otherwise transfers any large capacity weapon or large capacity feeding device, both as defined in section 121 of chapter 140, to a person 18 years of age or over, except as permitted under this section or chapter 140, shall be punished by imprisonment in a state prison for not less than two and one-half years nor more than ten years. Any person who commits a second or subsequent such crime shall be punished by imprisonment in a state prison for not less than five years nor more than 15 years. The sentence imposed upon such person shall not be reduced to less than two and one-half years for a first offense, nor less than five years for a second or subsequent such offense, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he shall have served such minimum term of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this subsection.

(b) Any person who transfers, sells, lends or gives a large capacity weapon or large capacity feeding device to a person under the age of 18, except as permitted under the provisions of chapter 140, shall be punished by imprisonment in a state prison for not less than five nor more than 15 years. The sentence imposed upon such person shall not be reduced to less than five years, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, furlough, work release or receive any deduction from his sentence for good conduct until he has served five years of such sentence; provided, however, that the commissioner of corrections may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of

a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this subsection shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this subsection.

Section 10G. (a) Whoever, having been previously convicted of a violent crime or of a serious drug offense, both as defined herein, violates the provisions of paragraph (a), (c) or (h) of section 10 shall be punished by imprisonment in the state prison for not less than three years nor more than 15 years.

(b) Whoever, having been previously convicted of two violent crimes, or two serious drug offenses or one violent crime and one serious drug offense, arising from separate incidences, violates the provisions of said paragraph (a), (c) or (h) of said section 10 shall be punished by imprisonment in the state prison for not less than ten years nor more than 15 years.

(c) Whoever, having been previously convicted of three violent crimes or three serious drug offenses, or any combination thereof totaling three, arising from separate incidences, violates the provisions of said paragraph (a), (c) or (h) of said section 10 shall be punished by imprisonment in the state prison for not less than 15 years nor more than 20 years.

(d) The sentences imposed upon such persons shall not be reduced to less than the minimum, nor suspended, nor shall persons convicted under this section be eligible for probation, parole, furlough, work release or receive any deduction from such sentence for good conduct until such person shall have served the minimum number of years of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution or the administrator of a county correctional institution, grant to such offender a temporary release in the custody of an officer of such institution for the following purposes only: (i) to attend the funeral of a spouse or next of kin; (ii) to visit a critically ill close relative or spouse; or (iii) to obtain emergency medical services unavailable at such institution. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file. The provisions of section 87 of chapter 276 relative to the power of the court to place certain offenders on probation shall not apply to any person 17 years of age or over charged with a violation of this section.

(e) For the purposes of this section, "violent crime" shall have the meaning set forth in section 121 of chapter 140. For the purposes of this section, "serious drug offense" shall mean an offense under the federal Controlled Substances Act, 21 U.S.C. 801, et seq., the federal Controlled Substances Import and Export Act, 21 U.S.C. 951, et seq. or the federal Maritime Drug Law Enforcement Act, 46 U.S.C. App. 1901, et seq. for which a maximum term of imprisonment for ten years or more is prescribed by law, or an offense under chapter

Chap. 180

4C involving the manufacture, distribution or possession with intent to manufacture or distribute a controlled substance, as defined in section 1 of said chapter 94C, for which a maximum term of ten years or more is prescribed by law.

Section 10H. Whoever, having in effect a license to carry firearms issued under section 131 or 131F of chapter 140, carries on his person, or has under his control in a vehicle, a loaded firearm, as defined in section 121 of said chapter 140, while under the influence of intoxicating liquor or marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of chapter 94C, or the vapors of glue shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than two and one-half years, or by both such fine and imprisonment.

SECTION 72. Section 12D of said chapter 269, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two subsections:-

(a) No person shall carry on any public way a rifle or shotgun having cartridges or shells in either the magazine or chamber thereof, unless such person is engaged in hunting and is the holder of a valid license issued under sections 6 to 9, inclusive, or section 51 of chapter 131. Whoever viola subsection shall be punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment in the house of correction for not more than two years, or by both such fine and imprisonment and may be arrested without a warrant; provided, however, that if such rifle or shotgun is a large capacity weapon, as defined in section 121 of chapter 140, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment in the house of correction for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

(b) No person shall carry on any public way an unloaded rifle or shotgun, unless such person is engaged in hunting and is the holder of a valid license issued under sections 6 to 9, inclusive, or section 51 of chapter 131, or unless such rifle or shotgun is enclosed in a case. Whoever violates this subsection shall be punished by a fine of not less than \$100 nor more than \$1,000, and may be arrested without a warrant; provided, however, that if such unloaded rifle or shotgun is a large capacity weapon and is carried simultaneously with a fully or partially loaded large capacity feeding device, such person shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment, and may be arrested without a warrant.

SECTION 73. (a) Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, all firearm identification cards issued under section 129B of chapter 140 of the General Laws and all licenses to carry firearms issued under section 131 of said chapter 140 prior to the effective date of this act shall expire on the following schedule: if a person's anniversary of birth is between July 1 and December 31, inclusive, such card or license shall expire on the cardholder's anniversary of birth in 1999; if a person's

anniversary of birth is between January 1 and June 30, inclusive, such card or license shall expire on the holder's anniversary of birth in 2000. Any such card or license issued to an applicant born on February 29, for the purposes described herein, shall expire on March 1. Upon the expiration of such card or license, the cardholder shall apply for a new card under said section 129B or a Class A or Class B license under said section 131; provided, however, that any person who holds a license to carry firearms that is expired under the provisions herein shall receive an abatement against the required fee for the next license issued equal to \$5 per full year remaining before the original expiration date of such license; provided further, that not more than \$20 shall be deducted from such fee; and provided further, that the licensing authority shall retain 50 per cent of such fee; provided, however, that the remainder of such fee shall be deposited in the Firearms Record Keeping Fund, established under section 2SS of chapter 29. Any firearm identification card lawfully possessed on the effective date of this act by a person in lawful possession of a large capacity rifle or shotgun on the effective date of this act shall be deemed a Class B license to carry firearms for the purpose of possessing such rifle or shotgun, and any license to carry firearms lawfully possessed on the effective date of this act by a person in lawful possession of a large capacity firearm on the date of passage of this act shall be deemed a Class A license.

(b) Any person who lawfully owns a large capacity rifle, shotgun or ammunition feeding device, as defined in section 121 of said chapter 140, on the effective date of this act shall, unless such person transfers such rifle, shotgun and ammunition feeding device in accordance with the provisions of said chapter 140, apply for a Class A or Class B license under the provisions of said section 131 of said chapter 140. Said Class A or Class B license may be issued in accordance with the provisions of said section 131; provided, however, that if such Class A or Class B license is not issued, all large capacity rifles, shotguns and ammunition feeding devices shall be surrendered in accordance with the provisions of section 129D of said chapter 140. Any person who acquires ownership or possession of a large capacity rifle or shotgun or large capacity feeding device therefor on or after the effective date of this act shall hold a valid Class A or Class B license to carry firearms issued under said section 131.

(c) Any person who lawfully owns a rifle, shotgun, ammunition or ammunition feeding device that is not a large capacity rifle or shotgun or large capacity feeding device on the effective date of this act shall, unless such person transfers such rifle, shotgun, ammunition and ammunition feeding device in accordance with the provisions of said chapter 140, apply for a firearm identification card under the provisions of section 129B of said chapter 140. Unless such applicant is disqualified under the provisions of said section 129B, such card shall be issued; provided, however, that if such card may not be issued, all rifles, shotguns and ammunition and ammunition feeding devices shall be surrendered in accordance with the provisions of section 129D of said chapter 140. Nothing herein shall prohibit such person from applying for a Class A or Class B license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

Chap. 180

(d) Any person who lawfully owns or possesses a large capacity firearm or ammunition feeding device, both as defined in section 121 of said chapter 140, on the effective date of this act shall, unless such person transfers such firearm and ammunition feeding device in accordance with the provisions of said chapter 140, apply for a Class A license under the provisions of section 131 of said chapter 140. Unless such applicant is disqualified under the provisions of said section 131, and if such large capacity firearm or feeding device was owned or possessed on the effective date of this act, such Class A license shall be issued; provided, however, that if such license may not be issued, all firearms, ammunition and ammunition feeding devices therefor shall be surrendered in accordance with the provisions of section 129D of said chapter 140.

(e) Any person who lawfully owns a firearm or ammunition feeding device therefor that is not a large capacity firearm or ammunition feeding device on the effective date of this act shall, unless such person transfers such firearm and ammunition feeding device in accordance with the provisions of said chapter 140, apply for a Class B license under the provisions of said section 131 of said chapter 140. Unless such applicant is disqualified under the provisions of said section 131, such Class B license shall be issued; provided, however, that if such license may not be issued, all firearms, ammunition and ammunition feeding devices therefor shall be surrendered in accordance with the provisions of section 129D of said chapter 140. Nothing herein shall prohibit such person from applying for a Class A license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

(f) Any person who lawfully owns or possesses a firearm or feeding device on the effective date of this act that was purchased with a permit issued under section 131A of said chapter 140 shall, unless such firearm and feeding device are transferred in accordance with the provisions of said chapter 140, apply for a firearm identification card under the provisions of section 129B of said chapter 140. Unless said applicant is disqualified under the provisions of said section 129B, such card shall be issued; provided, however, that if such card may not be issued, all firearms, ammunition and ammunition feeding devices therefor shall be surrendered in accordance with the provisions of section 129D of said chapter 140; provided further, that the requirements for obtaining a card under said section 129B shall not apply to such person that possesses valid proof of exemption under the provisions of section 129C of said chapter 140. Nothing herein shall prohibit such person from applying for a Class A of Class B license to carry firearms pursuant to the provisions of said section 131 of said chapter 140.

(g) Any person who acquires ownership or possession of any weapon, ammunition or ammunition feeding device on or after the effective date of this act must possess the proper card, license, card and permit or proof of exemption and permit as provided under section 131E of said chapter 140.

(h) The secretary of the executive office of public safety shall promulgate regulations necessary to implement the provisions of this act, and shall ensure that notice be provided

Chap. 180

through the most effective means possible to each such cardholder and licensee of the upcoming expiration dates of such cards and licenses, and instructing such holders with regard to renewal procedures, entitlements and restrictions provided under this act including, but not limited to, entitlements and restrictions relative to large capacity weapons and ammunition feeding devices.

(i) The executive director of the criminal history systems board shall develop a plan to provide licensing authorities with applications and renewal applications for firearm identification cards and Class A and Class B licenses to carry firearms at no cost and within a reasonable time. The secretary of the executive office of public safety shall submit such plan to the joint committee on public safety, the house and senate committees on ways and means and the clerks of the house and senate by March 15, 1999.

SECTION 74. Within 30 days of the effective date of this act the governor shall appoint the initial members of the gun control advisory board, established by section 131½ of chapter 140 of the General Laws, inserted by section 41 of this act.

SECTION 75. Notwithstanding the provisions of section 2SS of chapter 29 of the General Laws, inserted by section 2 of this act, the executive office of public safety shall, subject to appropriation and in accordance with the provisions of chapter 30B of the General Laws, expend \$250,000 for the purpose of providing specialized training programs for licensing authorities, as defined in section 121 of chapter 140 of the General Laws, for the operation of firearms records information systems and other training programs relating to firearms records keeping functions established in sections 121 to 131P, inclusive, of said chapter 140. Chiefs of police shall be given priority in access to such specialized training programs.

SECTION 76. The executive office of public safety shall conduct a study of crime statistics in the commonwealth identifying on an area-by-area basis where incidents of crime, particularly violent crimes and crimes involving firearms, are increasing and decreasing and shall prepare an analysis of the factors contributing to such increases and decreases.

SECTION 77. Clause Fifth of section 123 of chapter 140 of the General Laws, as amended by section 15 of this act, shall not apply to any person licensed under section 122 of chapter 140 of the General Laws until September 1, 1999.

SECTION 78. Clause Fifteenth of said section 123 of said chapter 140, inserted by section 19 of this act, shall not apply to licensees holding a valid license issued pursuant to said section 122 of said chapter 140 until September 1, 1999.

SECTION 79. Clause Eighteenth to Twenty-first, inclusive, of said section 123 of said chapter 140, inserted by section 19 of this act, shall not apply to any firearm lawfully owned or possessed under a license issued under said chapter 140 on the effective date of this act.

SECTION 80. The provisions of clause (iv) of subsection (d) of section 131 of chapter 140 of the General Laws shall not apply to any person who is a lawful holder of a license to carry firearms on the effective date of this act for the purpose of possessing rifles,

Chap. 180

shotguns and firearms lawfully owned by such person on such effective date; provided, however, that nothing herein shall permit a rifle or shotgun, the possession of which requires a Class A or B license to carry firearms, or any firearm to be sold, leased, transferred or delivered to any person less than 21 years of age.

Approved July 23, 1998.

Chapter 181. AN ACT RELATIVE TO THE RETIREMENT BENEFITS OF CERTAIN EMPLOYEES.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the state retirement board shall consider the following former employees of the commonwealth as having been active employees for the purpose of eligibility for the early retirement incentive program as set forth in chapter 22 of the acts of 1992 and who would have been eligible for said program but for the commonwealth's implementation of reduction in force procedures prior to the effective date of said chapter 22: Virginia Campbell, Jeanette Elwood, Natalie Freilich-Messier, Stanley Glick, Henry Grunebaum, Mary O'Connor and Edith Watson; provided, however, that the provisions of this act and the benefits created herein shall be available only to the aforementioned employees who would otherwise have been employed and eligible for said program but for their retirement, resignation or layoff as a consequence of such reduction in force procedures and shall be in lieu of any and all claims against the commonwealth for monetary damages or any award thereof as a result of rulings and remedial orders issued by the state labor relations commission on November 20, 1991 in SUP-3426 and on August 21, 1992 in SUP-3475; and provided, further, that if any of said employees have accepted recall or have been rehired or reemployed by the commonwealth, they shall not be eligible for said program.

Approved July 23, 1998.

Chapter 182. AN ACT RELATIVE TO SHADE TREES.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 87 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "thereof", in line 1, the following words:- including trees planted in accordance with the provisions of section 7.

SECTION 2. Said chapter 87 is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:-

Chap. 182

Section 7. Cities and towns may appropriate money for the purpose of acquiring and planting shade trees in public ways. The tree warden, or a private organization acting with the written consent of the tree warden, may plant shade trees acquired with public or private funds in a public way, or if he deems it expedient, upon adjoining land at a distance not exceeding 20 feet from the layout of such public way for the purpose of improving, protecting, shading or ornamenting the same; provided, however, that the written consent of the owner of such adjoining land shall first be obtained.

Approved July 23, 1998.

Chapter 183. AN ACT RELATIVE TO THE ELIGIBLE LIST FOR POLICE SERVICE.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 26 of chapter 31 of the General Laws or any other general or special law to the contrary, in any city or town which accepts the provisions of this act any child of William Stec, a patrolman in the metropolitan district commission police department who was injured during an assault while in the performance of his duties on May 18, 1980 as attested to in an affidavit filed with the department of personnel administration, who passes the required written and physical examinations for entrance to the police service shall have his name certified for original appointment to the police service before all other persons on the eligible list for such appointment; provided, however, that if more than one person shall be deemed to be eligible pursuant to the provisions of this act, the names of such persons shall be certified in the order of their respective scores on the open competitive civil service examination for such police service.

Approved July 23, 1998.

Chapter 184. AN ACT RELATIVE TO THE TRANSFER OF CERTAIN FISHING LICENSES.

Be it enacted, etc., as follows:

Section 2 of chapter 130 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:- Notwithstanding the foregoing, the division may promulgate regulations to permit the transfer of fishing licenses held in a limited entry fishery, so-called.

Approved July 24, 1998.

Chapter 185. AN ACT AUTHORIZING THE GOVERNOR TO DESIGNATE AN ADDITIONAL JUSTICE OF THE PEACE IN THE TOWN OF WEST BRIDGEWATER.

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 39 of chapter 207 of the General Laws regulating the number of justices of the peace that may be designated, the governor may designate an additional justice of the peace in the town of West Bridgewater to solemnize marriages under the provisions of said section 39.

Approved July 24, 1998.

Chapter 186. AN ACT ESTABLISHING A BOARD OF SELECTMEN-TOWN ADMINISTRATOR FORM OF GOVERNMENT IN THE TOWN OF SPENCER.

Be it enacted, etc., as follows:

SECTION 1. The inhabitants of the town of Spencer, within its territorial limits as now or may hereafter be established by law, shall continue to be a body politic and corporate, known as the town of Spencer.

SECTION 2. This act shall be cited and shall be known as the Spencer Governmental Act.

SECTION 3. The intent and purpose of this act is to secure for the voters of the town of Spencer through the adoption of this act, all the powers possible to secure for their government under Article LXXXIX of the Amendments to the Constitution and laws of the commonwealth, as fully and as though each such power were specifically and individually enumerated herein. To the extent that the provisions of this act modify or repeal existing general laws and special laws or the body of law which constitutes the town charter under Section 9 of Article LXXXIX of the Amendments to the Constitution, this act shall govern.

SECTION 4. The legislative powers of the town shall continue to be exercised by a town meeting open to all voters of the town.

SECTION 5. There shall be a board of selectmen consisting of five members elected by the voters for three year terms, so arranged that the term of office of at least one member, but not more than two members, shall expire each year.

The executive powers of the town shall be vested in the board of selectmen. The board of selectmen shall have all of the powers and duties given to the boards of selectmen under the constitution and laws of the commonwealth and such additional powers and duties as may be authorized by this act, by by-law or by other town meeting vote. The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record of its official acts to be maintained. The board of selectmen shall be the chief policy making board of the town and shall act by the issuance of policy statements and guidelines to be followed and implemented by all town agencies serving under the board.

The board of selectmen shall be the licensing authority of the town and shall have the power to issue licenses, to make necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

To aid the board of selectmen in the conduct of its official business and duties, the board of selectmen shall appoint a town administrator who shall serve at the pleasure of the board.

The board of selectmen shall also appoint a board of registrars, town counsel, and town auditor.

The town moderator shall make such appointments as authorized by town meeting vote and town by-laws.

SECTION 6. The town administrator shall be especially fitted by education, training and experience in public or business administration to perform the duties of the office. Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town administrator or the filling of any vacancy, the board of selectmen shall appoint a suitable person to perform the duties of the office. In the event of temporary absence or disability of the town administrator, the board of selectmen may designate a qualified person to serve as acting town administrator and to perform the duties of the town administrator during such temporary absence or disability. The town administrator shall receive such compensation for services as the board of selectmen shall determine, but such compensation shall not exceed the amount appropriated therefor by the town.

SECTION 7. The town administrator shall be the chief administrative officer of the town, shall act as the agent for the board of selectmen and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town administrator is given responsibility under this act. The town administrator, under the policy direction of the board of selectmen, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the town administrator and their respective departments and of all functions for which the town administrator is given responsibility, authority or control by this act, by by-law, by town meeting vote or by vote of the board of selectmen. The town administrator shall have the power to delegate, authorize or direct any subordinate or employee of the town to exercise any power, duty or responsibility which the office of town administrator is authorized to exercise under this act. All actions that are performed under such delegation shall be deemed to be the actions of the town administrator.

SECTION 8. Except as otherwise provided by this act, the town administrator shall appoint all department heads and officers, subordinates and employees except employees of the school district or department and those who are elected or are under the supervision of elected officials, elected boards or elected commissions. Appointments of department heads made by the town administrator shall become effective on the fifteenth day following the day

notice of proposed appointment is filed with the board of selectmen unless the board of selectmen shall, within said period, by a vote of at least four members of the board reject such appointment or has sooner voted to affirm it. Copies of notices of proposed appointments as filed with the board of selectmen shall simultaneously be posted.

SECTION 9. Except as otherwise provided by this act, the town administrator may remove for cause all department heads and officers, subordinates and employees except employees of the school district or department and those who are elected or are under the supervision of elected officials, elected boards or elected commissions. Removals for cause by the town administrator shall be subject to due process requirements of federal, state or town laws and regulations or enforceable contract provisions. Removals of department heads by the town administrator shall become effective on the thirtieth day following the day notice of proposed removal is filed with the board of selectmen unless the board of selectmen shall within said period, by the vote of a least four members of the board reject such removal or has sooner voted to affirm it. Copies of notices of proposed removals as filed with the board of selectmen shall simultaneously be posted.

SECTION 10. Annually, for the ensuing year, the board of selectmen in conjunction with the town administrator shall define goals and performance objectives which both parties determine necessary for the proper operation and welfare of the town and in the attainment of the policy objectives of the board. The board of selectmen and town administrator shall further establish a relative priority among those various goals and objectives. Said goals and objectives shall be reduced to writing. During the first year of employment, the board of selectmen and the town administrator will meet and set goals and objectives after six months. The board of selectmen shall review and evaluate the performance of the town administrator on a formal basis once annually under the terms and conditions of this act. Said review and evaluation shall include, but not be limited to: the town administrator's progress and performance on the annual goals and objectives as described in this section; budgetary and financial administration; personnel administration; supervision and leadership; staff development; public relations; employee and labor relations; policy execution; and interaction with the board of selectmen as well as the governmental officials, departments, boards and committees. The town shall provide the town administrator with a written evaluation report after each formal review and evaluation and shall provide the town administrator with an opportunity to discuss his review and evaluation with the board of selectmen in a workshop session and submit written comments in relation thereto.

SECTION 11. The town administrator shall:-

- (a) prepare and submit, after consultation with all town departments, an annual operating and capital budget and a capital improvement plan for all town departments;
- (b) insure that complete and full records of the financial and administrative activity of the town are maintained and to render reports to the board of selectmen as may be required;
- (c) approve warrants for payments of town funds prepared by the town accountant;

Chap. 186

(d) keep the board of selectmen and finance committee fully informed as to the financial condition of the town and to make recommendations to the board of selectmen and to other elected and appointed officials as the town administrator deems necessary or expedient in regard to such matters;

(e) prepare, annually, a financial forecast of town revenue, expenditures and the general financial condition of the town;

(f) develop and maintain a full and complete inventory of all property of the town, both real and personal;

(g) be responsible for the efficient use, maintenance and repair of all town facilities, including oversight of all insurance policies for the same, except for those facilities under the jurisdiction of the school committee;

(h) attend all regular and special meetings of the board of selectmen, unless excused. The town administrator shall attend all sessions of the town meeting and answer all questions addressed to him which are related to the warrant articles and to matters under his general supervision;

(i) administer either directly or through a person or persons supervised by the town administrator, provisions of general or special laws, by-laws and other votes of the town meeting;

(j) coordinate activities of all town departments, officers, boards or commissions of the town and to facilitate interdepartmental communication among them. The town administrator shall investigate or inquire into the affairs of any town department or office under his supervision and make reports in regard to such matters to the board of selectmen, if he deems it necessary and expedient;

(k) administer personnel policies, practices, rules and regulations, any compensation plan including benefits and insurance programs, and any related matters for all municipal employees including all provisions of the personnel by-laws and all collective bargaining agreements subject to his jurisdiction;

(l) be responsible, with the board of selectmen, for the negotiation of all contracts with town employees over wages and other terms and conditions of employment, except employees of the school department; such contracts shall be subject to the approval of the board of selectmen. The town administrator shall resolve union grievances according to provisions of the union contracts with the town except for school department contracts. The town administrator may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties;

(m) award, subject to the approval of the board of selectmen, all town contracts, with the exception of contracts involving the school department and other elected departments, elected boards and elected commissions. The town administrator shall serve as and perform the duties of the contract compliance officer of the town;

(n) be responsible for the purchase of all supplies, materials and equipment for all town departments except the school department. He shall examine and inspect, or cause to be examined and inspected, the quality, quantity and condition of supplies, materials and equipment delivered to or received by any town agency. He may examine services performed

Chap. 186

for any town agency secured through the purchasing procedure. The town administrator shall serve as and perform all the duties of the chief procurement officer of the town;

(o) serve as liaison with regional, state and federal governmental organizations, local business and community leaders and the general public;

(p) serve as grants person for the town; to seek out, be responsible for the preparation of applications and administer any grants that shall become available to the town;

(q) appoint and supervise the department heads and other non-elected officials and personnel of the town that are under the jurisdiction of the town administrator. He shall evaluate the performance of all department heads annually. The town administrator shall establish procedures by which the department heads will evaluate the performance of their subordinates annually;

(r) receive correspondence and answer routine daily inquiries. He shall set priorities among issues that demand the board of selectmen's attention. The town administrator shall organize the agenda for the board of selectmen's meetings and perform research on issues when necessary. He shall prepare selectmen for meetings with briefing memos, including a list of pertinent issues with supporting data;

(s) assemble town meeting articles and town warrants in concert with the town counsel. He shall present such articles on the town warrant to the appropriate town boards or committees for review and recommendation;

(t) compile the town report;

(u) review and make recommendations on the status of all license applications under the jurisdiction of the board of selectmen, and to make site inspections as necessary; and

(v) perform such duties as necessary, or as may be assigned by this act, by-law, town meeting vote, or vote by the board of selectmen.

SECTION 12. The registered voters of the town of Spencer shall elect town officials in accordance with any applicable laws, by-laws, votes of the town or interlocal agreement.

SECTION 13. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the town of Spencer on the effective date of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall continue to be in full force and effect until otherwise provided by other laws, by-laws, votes, rules and regulations, respectively. Nothing contained herein shall impair contractual rights established prior to the adoption of this act, or any amendment thereto.

Approved July 24, 1998.

Chapter 187. AN ACT AUTHORIZING THE TOWN OF MARION TO ESTABLISH AN OPEN SPACE ACQUISITION COMMISSION.

Be it enacted, etc., as follows:

The town of Marion is hereby authorized to establish by by-law an open space acqui-

Chap. 187

sition commission to consist of five members. Said commission shall have the powers of a conservation commission with respect to the acquisition of interests in land and the expenditure of funds under the provisions of section 8C of chapter 40 of the General Laws. At the initial election of commission members to be held at the annual town meeting in 1999, members shall be elected for one, two and three year terms and thereafter all members shall be elected for three year terms.

Approved July 24, 1998.

Chapter 188. AN ACT RELATIVE TO THE GRANT OF IMMUNITY.

Be it enacted, etc., as follows:

SECTION 1. Chapter 233 of the General Laws is hereby amended by striking out section 20C, as appearing in the 1996 Official Edition, and inserting in place thereof the following section:-

Section 20C. In any investigation or proceeding before a grand jury, or in a criminal proceeding in the supreme judicial court, appeals court or superior court involving any offense listed in section 20D, a witness shall not be excused from testifying or from producing books, papers or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, if he has been granted immunity with respect to the transactions, matters or things concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence by a justice of the supreme judicial court, appeals court or superior court, as provided in section 20E.

SECTION 2. Section 20D of said chapter 233, as so appearing, is hereby amended by striking out, in line 1, the words "called to testify before a grand jury" and inserting in place thereof the following words:- who is called or who may be called to testify before a grand jury or in a criminal proceeding in the supreme judicial court, appeals court or superior court.

SECTION 3. Said section 20D of said chapter 233, as so appearing, is hereby further amended by inserting after the word "uttering", in line 17, the following words:- , or any felony.

SECTION 4. Said chapter 233 is hereby further amended by striking out section 20E, as so appearing, and inserting in place thereof the following section:-

Section 20E. (a) A justice of the supreme judicial court, appeals court or superior court shall, at the request of the attorney general or a district attorney, and after a hearing, issue an order granting immunity to a witness, provided that such justice finds that the investigation or proceeding before the grand jury or the criminal proceeding in the supreme judicial court, appeals court or superior court involves an offense listed in section 20D and

that the witness did validly refuse, or is likely to refuse, to answer questions or produce evidence on the grounds that such testimony or such evidence might tend to incriminate him. If such justice so finds, such justice shall order the witness to answer the questions or produce the evidence requested and, if he so orders, such order and the order granting immunity shall be in writing and shall become effective upon the refusal of the witness to answer any question or produce any evidence requested on the basis of his privilege against self-incrimination.

(b) The witness shall be entitled to representation by an attorney at the hearing, which shall not be open to the public. The court may appoint counsel for the witness.

(c) An application filed pursuant to this section shall, at the request of the attorney general or a district attorney, act to stay any criminal proceedings in the supreme judicial court, appeals court or superior court, but not grand jury proceedings, until such time as a justice acts upon such application; provided, however, that a justice shall conduct an expedited hearing when such application is brought after the impanelment of a jury in the superior court.

(d) When the attorney general or a district attorney brings such application, he shall, at least three days before the date fixed for hearing on his application, send by certified mail or deliver a copy of such application to the attorney general and to each other district attorney in the commonwealth. The attorney general and any of the district attorneys may waive, either orally or in writing, his right to be served with such application. The attorney general and any such district attorney may file an appearance and have the right to be heard at the hearing as herein provided.

(e) An affidavit of proof of service or, in the alternative, waiver of such service, upon each district attorney and the attorney general shall be filed with the court.

(f) A transcript shall be made of the proceedings at the hearing and a certified copy of said transcript shall be transmitted to the grand jury or the court, whichever is appropriate.

SECTION 5. Section 20F of said chapter 233 is hereby repealed.

SECTION 6. Section 20G of said chapter 233, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 2, the words "sections twenty E or twenty F" and inserting in place thereof the following word:- section 20E.

SECTION 7. Said section 20G of said chapter 233, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words "sections twenty C, twenty E or twenty F" and inserting in place thereof the following words:- section 20C or 20E.

SECTION 8. Said section 20G of said chapter 233, as so appearing, is hereby further amended by inserting after the word "court", in line 17, the following words:- , appeals court or superior court.

SECTION 9. Section 20H of said chapter 233, as so appearing, is hereby amended by striking out, in line 2, the words "or twenty F".

Chap. 188

SECTION 10. Said section 20H of said chapter 233, as so appearing, is hereby further amended by striking out, in line 3, the words "or the" and inserting in place thereof the following words:- , appeals court or.

Approved July 24, 1998.

Chapter 189. AN ACT PROVIDING FOR THE IMPROVEMENT OF COURT FACILITIES IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately improve court facilities in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. The sums set forth in section 2 shall provide for planning and studies, acquisition of land and buildings, and interests therein, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, repair, furnishings and equipment, and related administrative expenses, for the acquisition, construction, renovation, and repair of court facilities owned or to be owned by the commonwealth and said sums shall be in addition to previous appropriations made for the improvement of court facilities, including any amounts appropriated by chapter 203 of the acts of 1988; provided, however, that priority shall be given to those projects necessary to improve life safety, security, and structural integrity of court facilities owned, or to be owned, by the commonwealth; and provided, further, that an amount not to exceed 2 per cent of the funds authorized herein may be expended for the costs of personnel and related administrative expenses which are solely and exclusively related to the projects funded by this authorization and any previous authorizations made for similar purposes.

SECTION 1A. The general court finds and declares that the prompt accomplishment of the important public purposes of this act by promoting the public interest and labor harmony requires the construction by project labor agreement of only four courthouse projects that are sufficiently extensive in size, complexity and duration for which this act authorizes funds, namely the downtown Worcester court complex, renovations to the historic Suffolk county courthouse, renovations or replacement of the high-rise Suffolk county courthouse, and the new downtown Fall River courthouse facility. Therefore, the commonwealth, in its capacity as a market participant for public construction projects, hereby requires a project labor agreement, including a uniform grievance and arbitration procedure and an obligation not to strike, for construction and renovation work only on each of these specified projects pursuant to item 0330-2206 of section 2.

SECTION 2.

JUDICIARY.

Trial Court.

0330-2206 For planning, development, land acquisition and construction of a new courthouse facility to be located in downtown Fall River, provided that said facility shall house the Bristol county Superior Court located at Fall River, the Fall River district court and a law library; and for projects in preliminary design, including downtown Worcester court complex, so-called, renovations to the historic Suffolk county courthouse, and renovations or replacement of the high-rise Suffolk county courthouse; provided, that expenditures made from this item for the acquisition of land, buildings, and interests therein, planning and studies, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of the courthouse facility projects, including furnishings and equipment, relocation, compliance with life safety codes and remediation of environmental hazards shall be completed pursuant to the provisions of chapters 7, 30, and 149 of the General Laws or pursuant to the provisions of section 5 of this act; and provided further, that for each of the four courthouse projects specified in this item, the funds authorized by this item or otherwise by this act shall be expended only in accordance with the following conditions: (a) the provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of the General Laws shall apply to all contracts for said project; and (b) all construction employees employed in the construction of said project shall be paid not less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (1) a uniform grievance and arbitration procedure for the resolution of work-related disputes on job sites; (2) mutually agreeable uniform work rules and schedules for the project; and (3) an obligation for any such labor organization and its constituent members not to strike with respect to work on such project; provided, that it shall not be a precondition to the award of a contract that

a bidder has previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the designated project if it is awarded a contract for such designated project \$285,000,000

0330-2207 For capital needs; provided, that expenditures made from this item shall be based upon the recommendations of the masterplan required by section 7 and to meet the costs of repairs to court facilities that have been or will be transferred to the commonwealth, which shall include, but not be limited to, expenditures for the following projects: the reconstruction or replacement of the trial court facilities in the city of Salem; the construction of a new trial court facility in Berkshire county to be located in the downtown area of the city of Pittsfield; the reconstruction or replacement of the trial court facilities and law library in Norfolk county; the construction of a new trial court facility in Falmouth; the construction of an Eastern Hampshire district court facility to be located in the town of Belchertown; the construction of a Franklin county trial court facility to be located in the town of Greenfield; the reconstruction or replacement of trial court facilities in Lowell; the reconstruction or replacement of the trial court facilities in Lynn; the construction of a new trial court facility in Middlesex county and the replacement of the Middlesex family and probate court; the renovation of the trial court facility in Newton; the renovation of the existing Plymouth superior courthouse for use by the probate and family court; the design and construction of a new Plymouth trial court; the renovation of the South Boston division of the trial court; the construction of a new trial court in Westfield; the design and construction of a new probate and family court in the county of Norfolk, including adequate space for a new law library in said court; and for renovations, repairs, construction, or reconstruction of the Charlestown district court; provided further, that expenditures made from this item for the acquisition of land, buildings, and interests therein, planning and studies, the preparation of plans and specifications, construction, renovation, reconstruction,

alteration, improvement, demolition, expansion, and repair of the courthouse facility projects, including furnishings and equipment, relocation, compliance with life safety codes and remediation of environmental hazards shall be completed pursuant to the provisions of chapters 7, 30, and 149 of the General Laws or pursuant to the provisions of section 5 of this act \$255,000,000

0330-2208 For other court needs, including the costs of preparing the masterplan required by section 7, to meet the costs of court repairs identified through said masterplan and to meet the costs of repairs to court facilities that have been or will be transferred to the commonwealth; provided, that expenditures made from this item shall include, but not be limited to, expenditures for the following projects: the study of a facility in or about the town of Dedham to house the archival needs of the Norfolk county trial courts, including the storage of certain court documents and records of the probate and family court; improvements to the northern Worcester county trial court facility in the city of Fitchburg; the renovation and repair of the district court facility located in East Boston; the renovation and provision for handicapped accessibility, security, and parking at the trial court facility located in Haverhill; a study of the necessary improvements to the superior court building and the existing building housing the district court located in the downtown area of the city of Taunton; the acquisition and construction of a parking facility for the new district court facility in the city of Taunton; assessment and designs, if necessary, for needed renovations or additions to the district court facility located in the city of Quincy; and for costs associated with the design and construction of a new superior court in the downtown area in the city of New Bedford; provided further, that expenditures from this item for the acquisition of land, buildings, and interests therein, planning and studies, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of the courthouse facility projects, including furnishings and equipment, relocation, compliance with life safety codes

and remediation of environmental hazards shall be completed pursuant to the provisions of chapters 7, 30, and 149 of the General Laws or pursuant to the provisions of section 5 of this act \$143,000,000

0330-2209 For life safety repairs, the remediation of life safety code violations and for security improvements, so-called, at court facilities owned by the commonwealth or by political subdivisions of the commonwealth, notwithstanding any contrary provision of section 1, including the construction, renovation, and repair of courthouse detention facilities; provided, that expenditures made from this item shall include, but not be limited to, expenditures for the following projects: the construction, renovation, and repair of detention facilities and remediation of court facilities within Berkshire county; repairs, renovations, security improvements, handicapped access including, but not limited to, elevator service and air quality improvements at the superior court located in the town of Dedham; air quality improvements and handicapped access at the Norfolk county registry of deeds building, the trial courts in Stoughton and Wrentham and the district court located in the town of Dedham; temporary parking improvements at the interim third district court in Falmouth; the construction of an addition and renovation of the district court located in the town of Dudley, including the construction of additional parking areas; roof repairs and construction of additional parking areas at the district court located in the town of Milford; the renovation and repairs of the prisoners' dock and expansion of the parking lot for judges and court personnel in the New Bedford division of the district court department; the renovation of the existing Lawrence district courthouse in the city of Lawrence located at 381 Common street in said city; the reconstruction or replacement of court facilities in the city of Gloucester; the relocation of the Ipswich district court facility to the building in Ipswich known as the Ipswich Whipple Middle School and the improvement thereof; the replacement of the wastewater pipe serving the district court facility located in the town of Clinton; and for costs, in addition to the amount authorized by chapter 227 of the

acts of 1995, of the Brockton trial court, including the remediation of environmental hazards, additional space, security, furnishings and other courthouse needs and for acquisition and improvement of land in the block bounded by Clinton avenue, West Elm street, Belmont street and Warren avenue located in the city of Brockton for additional parking spaces for said Brockton trial court; provided further, that expenditures made from this item for the acquisition of land, buildings, and interests therein, planning and studies, the preparation of plans and specifications, construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of the courthouse facility projects, including furnishings and equipment, relocation, compliance with life safety codes and remediation of environmental hazards shall be completed pursuant to the provisions of chapters 7, 30, and 149 of the General Laws or pursuant to the provisions of section 5 of this act \$47,300,000

SECTION 3. To meet the expenditures necessary to carry out the provisions of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an amount specified by the governor from time to time, but not exceeding in the aggregate, the sum of \$730,300,000. All bonds issued by the commonwealth as aforesaid, shall be designated on their face, Court Improvement Loan, Act of 1998, and shall be issued for such maximum term of years, not exceeding 20 years, as the governor may recommend to the General Court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June 30, 2023. Bonds and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

For each of the four courthouse projects specified in item 0330-2206, the funds authorized by said item or otherwise by this act shall be expended only in accordance with the following conditions: (a) the provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of the General Laws shall apply to all contracts for said project; and (b) all construction employees employed in the construction of said project shall be paid not less than the wage rate established for such work pursuant to a project labor agreement with the appropriate labor organization or labor organizations, which includes (1) a uniform grievance and arbitration procedure for the resolution of work-related disputes on job sites; (2) mutually agreeable uniform work rules and schedules for the project; and (3) an obligation for any such labor organization and its constituent members not to strike with respect to work on such project; provided, that it shall not be a precondition to the award of a contract that

a bidder has previously entered into a collective bargaining agreement with a labor organization, but only that the bidder be willing to execute and comply with said project labor agreement for the designated project if it is awarded a contract for such designated project.

SECTION 4. The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such term, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June 30, 2002. Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

SECTION 5. (a) As used in this section, the following words shall have the following meanings:-

"Commissioner", the commissioner of the division of capital planning and operations.

"Design/build", a construction method which utilizes a single company for the design and construction of a building, rather than separately contracting with a designer and then a general contractor.

"Project", any of the courts, courthouses or appurtenant facilities authorized by section 2.

"Site", any parcel or parcels of land acquired for any of the courts, courthouses or appurtenant facilities authorized by section 2.

(b) Notwithstanding the provisions of sections 40E to 40I, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner is hereby authorized, subject to the requirements of this section, to acquire by purchase or by eminent domain pursuant to chapter 79 of the General Laws, any and all interests in the land and buildings deemed necessary by said commissioner to carry out the purposes of this act, including, but not limited to the acquisition of land, buildings, and easements for drainage, access, utilities, and environmental mitigation.

The commissioner shall not acquire a site by eminent domain unless a competitive site selection process has first been conducted in conformance with subsection (d) and the commissioner determines that as a result of said process, it is not in the best interests of the commonwealth with respect to cost and other requirements of a project to acquire any of the proposed sites. The commissioner shall explain the reasons for such determination in a written report, which shall be available for public inspection.

(c) Notwithstanding the provisions of sections 38A½ to 38 O, inclusive, of chapter 7 of the General Laws, section 39M of chapter 30 of the General Laws, and sections 44A to 44J, inclusive, of chapter 149 of the General Laws, or any other general or special law regulating the design, construction, advertising, or bidding of design and of construction

contracts, or any other general or special law to the contrary, the commissioner may select and contract with a single contractor to provide design/build services for the design and construction of the project; provided, however that the design/build contractor shall be certified by the commissioner to perform the work required and shall be selected through a competitive process conducted in conformance with subsection (d).

(d) The commissioner shall develop procedures for site selection or procurement of design/build services in consultation with the office of the inspector general. Said procedures shall include but shall not be limited to the following provisions:

(1) The commissioner shall obtain the site and design/build services utilizing sealed competitive proposals unless the site has been acquired by gift. The commissioner shall solicit proposals through a request for proposals which shall include: the time and date for receipt of proposals; the address of the office to which a proposal shall be delivered; proposed contractual terms and conditions, some of which may be deemed mandatory or non-negotiable; standards by which acceptability will be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose; all evaluation criteria that will be utilized by the commissioner; and such other matters as may be determined by said commissioner. The request for proposals for design/build services shall also describe the scope of the design/build project and identify all quality and performance requirements for said project.

(2) Evaluation criteria for selecting the site shall include, but not be limited to, location in areas of cities and towns, as authorized by section 2, which are in need of revitalization and renewal and where such revitalization and renewal are deemed important by the municipality for acquisition and other costs. Evaluation criteria for design/build services shall include, but not be limited to, relevant technical and management experience of the offeror's proposed design/build team, including subcontractors, the financial stability and resources of the offeror, quality of construction materials, and the costs and life cycle of installed equipment.

(3) Public notice of each request for proposals shall be published at least three weeks prior to the time specified in such notice for the receipt of proposals in the central register published by the state secretary and in a daily newspaper of general circulation in the municipality or county where each project is proposed. The request for proposals for design/build services shall also be published in at least one trade journal of national distribution.

(4) Each request for proposals may incorporate documents by reference; provided, however, that the request for proposals shall specify where offerors may obtain such documents. The request for proposals for design/build services may provide for the separate submission of price, and so provided, shall indicate when and how offerors shall submit the price, and shall specify that bid security in a form specified by the commissioner and in an amount equal to 5 per cent of the proposed contract price shall accompany such proposal. The commissioner shall make copies of each request for proposals available to all offerors on an equal basis. The commissioner may conduct pre-proposal conferences and interviews

with interested parties prior to receiving proposals. An offeror's proposal shall be unconditional except as provided in this paragraph. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for the opening of proposals.

(5) At the opening of the proposals, the commissioner shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. After the opening of the proposals, an offeror may not correct, modify, or withdraw the price or any other provisions of its proposal in a manner prejudicial to the interests of the commonwealth or fair competition. The commissioner may waive minor informalities or allow the offeror to correct them.

(6) The commissioner shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of any general or special law to the contrary, until the completion of the selection process, the contents of the proposals and the selection process shall not be disclosed to competing offerors and shall not be public documents.

(7) The commissioner shall appoint a site selection committee and a design/build selection committee which may be the same committee. The design/build selection committee shall be composed of experts in design, construction, and court administration, including the chief justice for administration or his designee. The appropriate committees shall evaluate the proposals received by the commissioner. Each selection committee shall conduct its evaluations of the proposals based solely on the criteria set forth in the request for proposals. In the event that price proposals are to be submitted separately from proposals for design/build services, the design/build selection committee shall not evaluate these and the commissioner shall not disclose such price proposals to the committee until the committee has completed its evaluation of the proposals for design/build services.

(8) For each proposal, the appropriate selection committee shall specify in writing on each evaluation criterion a rating of highly advantageous, not advantageous, or such additional rating as the committee finds reasonable, and shall specify in writing a composite rating for each proposal and the reasons for such composite rating.

(9) The commissioner shall make a determination of the most advantageous proposal for the site and for design/build services from a responsible and responsive offeror based upon the ratings given to the proposals by the appropriate selection committees. If price proposals have been submitted separately for design/build services, the commissioner shall also base such determination on an evaluation of such price proposals. The commissioner may negotiate all contract terms not deemed mandatory or non-negotiable with such offerors. If, after negotiation with such offerors, the commissioner is unable to finalize a contract for either acquisition of the site or for design/build services, or both, that is in the commonwealth's best interests, the commissioner may negotiate with the offeror of the next most advantageous proposal submitted by a responsible and responsive offeror based upon the ratings of the appropriate selection committee and upon an evaluation of the relevant price proposal if separately submitted.

(10) The contract to acquire the site and the contract for design/build services shall be awarded by the commissioner to the responsible and responsive offerors submitting the most advantageous proposals based upon the evaluation criteria set forth in the request for proposals and the terms of the negotiated contract. The commissioner shall complete the selection process by written notice to the selected offeror or by notice of rejection to all proposers, as specified below. The commissioner may reserve the right to reject any or all proposals if it is in the public interest to do so.

(11) For the purposes of this section, the term "responsible offeror" shall mean a person, corporation, or other organization or entity which has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance, and the term "responsive offeror" shall mean a person, corporation, or other organization or entity which has submitted a proposal which conforms in all respects to the request for proposals.

(12) If the commissioner awards the contract to acquire the site or the contract for design/build services to an offeror which did not submit the lowest price proposal, the commissioner shall explain the reasons for such award in writing, which shall be available for public inspection.

(13) Prior to execution of a design/build contract, the selected offeror shall furnish to the commissioner a performance bond and payment bond, each in the sum of the contract price and issued by a surety company qualified to issue bonds in the commonwealth and satisfactory to the commissioner. If the selected offeror fails to execute a contract or to furnish the necessary bonds within the time period specified in the request for proposals, the commissioner may award the design/build contract to the offeror of the next most advantageous proposal.

(14) The commissioner shall return the bid security to all design/build offerors which are not selected. The design/build selection committee shall have conferences describing relative strengths and weaknesses of each proposal with the other qualified offerors which were not selected if the offerors request to have such conferences.

(15) The commissioner shall prepare a written report of the reasons for its selection determinations and any subsequent determinations to negotiate with additional proposers, including the recorded votes, if any, that were taken which shall be available to the public.

(e) The commissioner shall submit final procedures for site selection or procurement of design/build services to the inspector general for comment at least 30 days prior to the publication of notice of request for proposals. Such procedures and the inspector general's comments shall be submitted to the governor, the senate president, the speaker of the house and the members of the general court at least 45 days before the execution of any contract for site selection or procurement of design/build services.

SECTION 6. The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding chapter 7 of the General Laws, to grant easements for drainage, access, utilities and other purposes, as deemed necessary by the commissioner to carry out the purposes of this act.

SECTION 7. The division of capital planning and operations, in consultation with the supreme judicial court and the administrative office of the trial court, shall inspect all facilities owned or used by the courts of the commonwealth and shall prepare and periodically update a masterplan for said facilities. Said masterplan shall not distinguish between county owned and state owned courthouses in prioritizing construction and renovation. Said masterplan shall include, but not be limited to, the following standards and criteria, regardless of whether said facilities are publicly or privately owned: standards for the delivery of services in different sizes and types of court facilities; standards for evaluating the adequacy of existing court facilities and the need for new or renovated court facilities, based upon, among other criteria, the physical condition of the facility, the number of cases per courtroom or other comparable measures; and criteria for the prioritization of necessary court facilities capital projects developed on the basis of the aforesaid inspection. Said masterplan shall include recommendations for the consolidation or elimination of court facilities based upon an evaluation of facility utilization and caseload demands, facility redundancy based upon the availability of accessible alternative facilities, and the cost-effective repair or replacement of existing facilities. Said masterplan shall identify how each facility has been evaluated according to said standards and criteria, and shall recommend a schedule for improvement, repair, renovation or replacement for any facilities not recommended for consolidation or elimination by said masterplan. Every facility identified in the masterplan for improvement, repair, renovation, or replacement, regardless of ownership, shall be subject to the approval of the chief justice for administration and management of the trial court, subject to the general superintendence of the supreme judicial court, and the approval of the commissioner of the division of capital planning and operations. Copies of said masterplan shall be submitted to the secretary of administration and finance and the house and senate committees on ways and means on or before January 1, 1998.

SECTION 8. The division of capital planning and operations, in consultation with the appropriate district attorney, is hereby authorized and directed to provide adequate space allocation to accommodate the staff of the district attorney's office, including executive and administrative staff, the grand jury unit, superior court staff, appellate unit staff, or any other unit of said office in any newly constructed, reconstructed, or substantially renovated courthouse facility. No design, redesign, construction, or renovation of any court facility referenced in section 2 shall be finalized by the commissioner of the division of capital planning and operations until a formal presentation has been given to the district attorney on the design plans for the new, reconstructed, or substantially renovated facility. Further, said division of capital planning and operations, in consultation with the appropriate county sheriff, is hereby authorized and directed to provide adequate space allocation in courthouses constructed, reconstructed, or substantially renovated in the commonwealth to accommodate the duties and responsibilities of said sheriff. No design, redesign, construction, or substantial renovation of any court facility referenced herein shall be finalized by the commissioner of the division of capital planning and operations until a formal presentation has been given to

the county sheriff on the design plans for the new, reconstructed, or substantially renovated facility. The provisions of this section shall not be applicable to the courthouse projects in the cities of Brockton and Taunton.

SECTION 9. Section 1 of chapter 218 of the General Laws, as appearing in the 1994 Official Edition, is hereby amended by striking out the first paragraph under the caption Hampshire, and inserting in place thereof the following two paragraphs:-

The district court of Hampshire, held at Northampton, Cummington, Huntington, and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

SECTION 10. Section 15 of chapter 203 of the acts of 1988 is hereby amended by striking out, in lines 19 and 28, the word "deputy".

SECTION 11. Section 17 of chapter 203 is hereby amended by striking out the first sentence, as amended by section 201 of chapter 379 of the acts of 1992, and inserting in place thereof the following sentence:- On or before January 1, 2000, any county, by vote of the county commissioners or the county advisory board; any city, by vote of the city council and approval of the city manager in a city having a Plan D or Plan E form of charter, or by order of the mayor in any other city; and any town, by vote at the annual town meeting or a special town meeting; may elect to transfer to the commonwealth all right, title and interest held by said county, city, or town in any or all buildings and land occupied by the judicial branch and owned by said city, county or town.

SECTION 12. The third sentence of said section 17 of said chapter 203 is hereby further amended by striking out, in line 2, the word "deputy".

SECTION 13. The fifth sentence of said section 17 of said chapter 203 is hereby amended by striking out, in line 4, the word "deputy".

SECTION 14. Said section 17 of said chapter 203, as amended by section 201 of chapter 379 of the acts of 1992, is hereby further amended by adding the following sentence:- Any transfer of buildings or land pursuant to this section or section 18 shall require the approval of the chief justice for administration and management, subject to the general superintendence of the supreme judicial court and the approval of the commissioner of the division of capital planning and operations.

SECTION 15. Section 19 of said chapter 203 is hereby amended by striking out, in lines 8, 9, 14 and 16, the word "deputy".

SECTION 16. Section 20 of said chapter 203 is hereby amended by striking out, in line 22, the word "deputy".

SECTION 17. Section 21 of said chapter 203 is hereby amended by adding the following sentence:- Notwithstanding any provision in this chapter, the obligation of the respective counties, cities and towns to pay workers compensation benefits to employees injured on or before the date of transfer to the employment of the trial court pursuant to chapter 152 of the General Laws will continue to be borne by the respective counties, cities and towns and shall not be transferred to or borne by the commonwealth.

SECTION 18. Section 22 of said chapter 203 is hereby amended by striking out, in lines 1, 43, and 51, the word "deputy".

SECTION 19. Section 24 of said chapter 203 is hereby amended by striking out, in lines 13 and 31, the word "deputy".

SECTION 20. Section 26 of said chapter 203 is hereby amended by striking out, in lines 3, 8, 14, 24, 31, 32, 37, 38 and 40, the word "deputy".

SECTION 21. Section 27 of said chapter 203 is hereby amended by striking out, in lines 1, 9 and 20, the word "deputy".

SECTION 22. Notwithstanding the provisions of any general or special law to the contrary, plans for the construction or reconstruction of court facilities with funds authorized in section 2 shall take into account the recommendations and findings detailed in the report of the chief justice's commission on the future of the courts known as "Reinventing Justice 2022".

SECTION 23. Notwithstanding any other provision of this act or of any general or special law to the contrary, the commissioner of capital planning and operations is hereby authorized to enter into a lease for all or any portion of the federal post office and courthouse building at Post Office Square in the city of Boston on such terms and conditions as may be determined by said commissioner and the chief justice for administration and management for use by the courts of the commonwealth. Notwithstanding any other provision of this act, said commissioner is hereby authorized to expend any bond funds authorized by this act to make any improvements to said federal post office and courthouse building as may be deemed appropriate or necessary by said commissioner and said chief justice for the use of said building by the courts of the commonwealth.

SECTION 24. Notwithstanding any other provision of this act or of any general or special law to the contrary, the commissioner of the division of capital planning and operations is hereby authorized and directed to promote the use of the latest technologies available in order to ensure the best available air quality standards are employed in each project funded pursuant to section 2 that is initiated or designed after the effective date of this act.

SECTION 25. Notwithstanding the provisions of any general or special law to the contrary, all court facilities constructed or reconstructed with funds authorized in section 2 shall be constructed so as to accommodate state of the art telecommunications equipment.

SECTION 26. Notwithstanding the provisions of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital planning and

operations is hereby authorized to employ the designer currently employed to prepare plans and specifications for the construction and renovation of court facilities in the city of Worcester to provide all design services for the construction, renovation, reconstruction, alteration, improvement, demolition, expansion, and repair of any court facility in said city of Worcester, including, but not limited to, updating, revising and expanding the existing study, program and cost estimates, preparing plans and specifications and supervising and administering construction contracts; provided, however, that not less than 45 days prior to the execution of any contract for such employment the commissioner shall file with the inspector general and with the house and senate committees on ways and means a report stating its reasons for selecting such designer.

SECTION 27. Notwithstanding section 7 or any other provision of this act or of any general or special law to the contrary, the commissioner of capital planning and operations, in consultation with the supreme judicial court and the administrative office of the trial court, is hereby authorized and directed to prioritize courthouse construction and renovation projects in the following manner; first priority shall be given to those projects for life safety repairs, the remediation of life safety code violations, and for security improvements contained in item 0330-2209 of section 2 and thereafter projects shall be prioritized in accordance with table 6 of the interim report "Establishing a Framework for a Master Plan for Court Facilities in the Commonwealth of Massachusetts: Preliminary Findings Regarding Improvement Needs and Priorities" developed by the court facilities unit of said division, in conjunction with the administrative office of the trial court and the supreme judicial court in January 1997. After the submission of the final master plan to the secretary of administration and finance and the house and senate committees on ways and means, pursuant to said section 7, projects will be prioritized in accordance with said master plan.

SECTION 28. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of capital planning and operations, the chief justice for administration and management, and the secretary of the executive office of public safety shall study the costs and benefits of locating regional lockups and pre-trial detention centers at or within appropriate trial courts. Said study shall be conducted on a statewide basis, but shall include, a study of locating such lockups and detention center facilities in trial court facilities in the city of Lowell. Said study shall be completed no later than March 1, 1998 and a report thereof shall be submitted to the house and senate committees on ways and means.

SECTION 28A. A special commission is hereby established to consider the circumstances under which project labor agreements should be utilized, including consideration of their appropriateness and function and the size, complexity and duration of the public construction projects for which they should be utilized. Said commission shall consist of the secretary of administration and finance or designee thereof, the attorney general or designee thereof, the auditor or designee thereof, the commissioner of capital planning and operations or designee thereof, a representative of the Construction Industries of Massachusetts and a representative of the Massachusetts Building Trades Council. Said commission shall report its findings, together with drafts of any legislation it recommends, to the joint committee on commerce and labor not later than July 1, 2000.

Chap. 189

SECTION 29. The provisions of section 9 shall take effect January 1, 2002.

Approved July 28, 1998.

**Chapter 190. AN ACT RELATIVE TO THE MEMBERSHIP OF THE
CONSERVATION COMMISSION OF THE TOWN OF WEST
TISBURY.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section 8C of chapter 40 of the General Laws, the board of selectmen of the town of West Tisbury may appoint not more than two associate members of the conservation commission of said town for terms not to exceed one year.

The chairman of said commission may designate any such associate member to sit on the commission in the absence of a quorum for any reason including a conflict of interest, the existence of a vacancy until said vacancy is filled in the manner provided in said section 8C of said chapter 40, or for any other reason the chairman may determine to be in the best interest of the commission.

Approved July 30, 1998.

**Chapter 191. AN ACT AUTHORIZING THE CITY OF WORCESTER TO ISSUE
PENSION OBLIGATION BONDS.**

Be it enacted, etc., as follows:

SECTION 1. The city of Worcester is hereby authorized to issue, at one time or from time to time, bonds or notes for the purpose of funding the unfunded pension liability, so-called, of the retirement system of said city. The proceeds of any such issuance shall be transferred by said city to said retirement system. The term of any such bond or note shall not exceed 30 years from the date of issuance and the amount of any such bond or note shall be considered as outside the limit of indebtedness prescribed in section 10 of chapter 44 of the General Laws. No such bonds or notes shall be issued without the approval of the city council of a loan order adopted by a two-thirds vote upon a recommendation of the city manager. After the city council has approved the loan order, the city manager shall submit said order and a plan demonstrating how the city will finance and allocate the debt service associated with said bonds or notes to the executive office for administration and finance, and no bonds or notes authorized by this act shall be issued until the secretary for administration and finance has approved said plan. Except as otherwise provided herein such bonds or notes shall be subject to the provisions of said chapter 44.

SECTION 2. The aggregate principal amount of the bonds or notes issued under authority hereof shall not be greater than the amount sufficient to extinguish the unfunded pension liability of the retirement system of the city of Worcester as determined in accordance with this section. The retirement board of said city shall first determine the amount sufficient to extinguish the unfunded pension liability of the retirement system of said city in accordance with the report of a nationally recognized independent consulting firm, which may be the consulting actuary generally retained by said retirement board, and with the approval of the public employee retirement administration commission. Such report shall also set forth the present value savings to the city reasonably expected to be achieved as a result of the issuance of such bonds or notes and shall be transmitted to the city council prior to final passage of any order authorizing the issuance of bonds or notes hereunder. In making the initial recommendation to the city council to adopt a loan order authorizing the issuance of bonds or notes under authority of this act the city manager of said city shall indicate his approval of the aggregate principal amount of the bonds or notes as determined by said retirement board.

SECTION 3. The maturities of such bonds or notes shall be scheduled such that the annual combined payments of principal and interest for each issue shall be as nearly equal as practicable in the opinion of the city manager; provided, however, that the maturities of such bonds or notes may be scheduled so as to provide a more rapid amortization of principal.

SECTION 4. Every governmental unit the employees of which are members of the retirement system of the city of Worcester shall be responsible in accordance with this section for paying such proportion of the annual debt service expense paid by said city for bonds issued under authority of this act as is equal to the proportion of the total unfunded pension liability of said retirement system allocated to such member under section 2. Notwithstanding the provisions of any general or special law to the contrary, the public employee retirement administration commission shall increase the annual amount to be certified under section 22 of chapter 32 of the General Laws as the amount necessary to be paid by each governmental unit in said retirement system other than said city by each such governmental unit's proportionate share of the annual debt service expense as determined herein and shall decrease the amount to be paid by said city by an equal amount. Said city shall have the same legal rights and authority as the retirement board of said city to collect any amount so assessed by the retirement board to any such governmental unit.

SECTION 5. This act shall take effect upon its passage.

Approved July 30, 1998.

**Chapter 192. AN ACT AUTHORIZING THE TOWN OF WESTBOROUGH TO
ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL
ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section 17 of chapter 138 of the General Laws, the licensing authority of the town of Westborough is hereby authorized to issue to the 3 Star Enterprises, Inc. a license to sell all alcoholic beverages to be drunk on the premises under the provisions of section 12 of said chapter 138. Said license shall be subject to all of the provisions of said chapter 138 except for said section 17; provided, however, that said licensing authority shall not approve the transfer of said license to any other person, organization, corporation or location.

SECTION 2. This act shall take effect upon its passage.

Approved July 30, 1998.

**Chapter 193. AN ACT RELATIVE TO THE NANTUCKET HISTORIC DISTRICT
COMMISSION.**

Be it enacted, etc., as follows:

SECTION 1. Section 2A of chapter 395 of the acts of 1970, inserted by section 1 of chapter 735 of the acts of 1987, is hereby amended by striking out the definition of "Structure" and inserting in place thereof the following definition:-

"Structure", a combination of materials other than a building, including, but not limited to a vending machine, sign, fence, wall, terrace, walk or driveway.

SECTION 2. The second paragraph of section 3 of said chapter 395, added by chapter 314 of the acts of 1990, is hereby amended by striking out, in the second sentence, the word "Two" and inserting in place thereof the following word:- Three.

SECTION 3. This act shall take effect upon its passage.

Approved July 30, 1998.

Chapter 194. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 1999 FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 1998, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. To provide for the maintenance of the several departments, boards, commissions and institutions and other services, and for certain permanent improvements and to meet certain requirements of law, the sums set forth in sections 2, 2B, 2D and 3, for the several purposes and subject to the conditions specified in said sections 2, 2B, 2D and 3 are hereby appropriated from the General Fund unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and the approval thereof for the fiscal year ending June 30, 1999.

SECTION 1A. In accordance with Articles LXIII and CVII of the Articles of Amendment to the Constitution of the Commonwealth and section 6D of chapter 29 of the General Laws, it is hereby declared that the amounts of revenue set forth in this section by source for the respective funds of the commonwealth for the fiscal year ending June 30, 1999 are necessary and sufficient to provide the means to defray the appropriations and expenditures from such funds for such fiscal year as set forth and authorized in sections 2 and 2B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts from each such source by each such fund to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with the projected receipts set forth herein and to include a full statement comparing such actual and projected receipts in the annual report for such fiscal year pursuant to section 13 of chapter 7A of the General Laws; provided, that such quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

Chap. 194**FY 1999 Revenue by Source and Budgetary Fund
(In Millions)**

Source	All Funds	General Fund	Highway Fund	Local Aid Fund	Other Funds
Alcoholic Beverages	59.1	59.1	-	-	-
Commercial Banks	123.4	123.4	-	-	-
Savings Institutions	61.9	61.9	-	-	-
Cigarette	295.0	100.9	-	-	194.1
Corporations	1,025.4	615.2	-	410.2	-
Deeds	62.3	62.3	-	-	-
Estate/Inheritance	192.2	192.2	-	-	-
Income	7,597.9	4,558.7	-	3,039.2	-
Insurance	301.5	301.5	-	-	-
Motor Fuels	624.7	93.7	522.2	-	8.7
Utilities	136.0	136.0	-	-	-
Room Occupancy	117.0	61.7	-	-	55.3
Sales & Use: Regular	2,048.3	1,229.0	-	819.3	-
Sales & Use: Services	191.0	114.6	-	76.4	-
Sales & Use: Meals	429.1	257.5	-	171.6	-
Sales & Use: Motor Vehicles	422.5	253.5	-	169.0	-
Miscellaneous	0.8	0.8	-	-	-
Racing	8.6	8.6	-	-	-
Beano	3.4	3.4	-	-	-
Raffles/Bazaars	1.0	1.0	-	-	-
Division of Insurance	6.9	6.9	-	-	-
Subtotal Taxes	13,708.0	8,242.0	522.2	4,685.7	258.1
Transfer from Tax Escrow	162.5	162.5			
Total Taxes	13,870.5	8,404.5	522.2	4,685.7	258.1
Federal Reimbursements	3,399.2	2,659.2	2.7	-	737.2
Departmental Revenues	1,291.8	820.2	274.9	7.9	188.9
Transfers & Other Receipts	953.2	285.1	-	659.3	8.8
Total for Budget	19,514.8	12,169.0	799.9	5,352.8	1,193.0

Chap. 194

SECTION 1B. The comptroller is hereby authorized and directed to keep a distinct account of actual receipts of nontax revenues by each department, board, commission or institution to furnish the executive office for administration and finance and the house and senate committees on ways and means with quarterly statements comparing such receipts with projected receipts set forth herein and to include a full statement comparing such receipts with projected receipts in the annual report for such fiscal year pursuant to section 13 of chapter 7A of the General Laws; provided, that such quarterly and annual reports shall also include detailed statements of any other sources of revenue for the budgeted funds in addition to those specified in this section.

Non-Tax Revenue Executive Summary

Source	FY99 Unrestricted Non-Tax	FY99 Restricted Non-Tax	FY99 Total Non-Tax
Judiciary	66,765,980	0	66,765,980
Executive	10,000	0	10,000
Secretary of State	60,488,920	60,000	60,548,920
Treasurer	418,457,651	597,453,642	1,015,911,293
Attorney General	8,822,830	0	8,822,830
Ethics Commission	23,000	0	23,000
Inspector General	0	300,000	300,000
Campaign & Political Finance	35,000	0	35,000
Comptroller	12,164,616	20,000	12,184,616
Administration and Finance	282,951,381	19,712,227	302,663,608
Environmental Affairs	75,331,590	1,770,506	77,102,096
Health and Human Services	3,363,561,285	150,549,051	3,514,110,336
Transportation and Construction	7,768,704	27,345	7,796,049
Board of Library Commissioners	1,212	0	1,212
Labor, Education and Development	244,073,228	1,611,100	245,684,328
Public Safety	302,414,911	25,615,975	328,030,886
Sheriffs	899,162	0	899,162
Elder Affairs	305,069	3,000,000	3,305,069
Legislature	21,500	0	21,500
	4,844,096,040	800,119,846	5,644,215,886

Chap. 194**Non-Tax Revenue Department Summary**

	FY99 Unrestricted Non-Tax	FY99 Restricted Non-Tax	FY99 Total Non-Tax
Judiciary			
Supreme Judicial Court	1,145,180	0	1,145,180
Committee for Public Counsel	180,000	0	180,000
Appeals Court	276,800	0	276,800
Trial Court	65,164,000	0	65,164,000
Total Judiciary	66,765,980	0	66,765,980
Executive	10,000	0	10,000
Secretary of State	60,488,920	60,000	60,548,920
Treasurer			
Treasurer's Office	225,981,073	0	225,981,073
State Lottery Commission	178,466,033	597,453,642	775,919,675
Mass Cultural Council	14,010,545	0	14,010,545
Total Treasurer	418,457,651	597,453,642	1,015,911,293
Attorney General	8,692,830	0	8,692,830
Victim Witness Assistance	130,000	0	130,000
Total Attorney General	8,822,830	0	8,822,830
Ethics Commission	23,000	0	23,000
Inspector General	0	300,000	300,000
Campaign & Political Finance	35,000	0	35,000
Office of State Comptroller	12,164,616	20,000	12,184,616
Administration and Finance			
Office of the Secretary	39,825,754	0	39,825,754
Office of Dispute Resolution	60,000	150,000	210,000
Division of Fiscal Affairs	30,772,110	0	30,772,110
Capital Asset Management and Maintenance	4,975,136	14,150,000	19,125,136
Group Insurance Commission	111,211,676	0	111,211,676
Administrative Law Appeals	100,000	0	100,000
Commission Against Discrimination	37,574	1,590,844	1,628,418
Department of Revenue	93,196,255	0	93,196,255
Appellate Tax Board	1,564,200	0	1,564,200
Human Resources Division	55,100	1,415,750	1,470,850

Chap. 194

	FY99 Unrestricted Non-Tax	FY99 Restricted Non-Tax	FY99 Total Non-Tax
Division of Operational Services	1,153,376	1,809,866	2,963,242
Division of Information Technology	200	595,767	595,967
Total Administration and Finance	282,951,381	19,712,227	302,663,608
Environmental Affairs			
Office of the Secretary	214,815	200,000	414,815
Environmental Management	6,869,929	350,000	7,219,929
Environmental Protection	27,383,802	0	27,383,802
DFWELE	15,472,223	617,000	16,089,223
Metropolitan District Commission	19,156,787	603,506	19,760,293
Food and Agriculture	6,234,035	0	6,234,035
Secretary of Human Services	6,000,750	3,000,000	9,000,750
Total Environmental Affairs	81,332,340	4,770,506	86,102,846
Health and Human Services			
Division of Medical Assistance	2,117,324,908	65,000,000	2,182,324,908
Health Care Finance and Policy	48,060,381	0	48,060,381
Commission for the Blind	2,695,000	0	2,695,000
Rehabilitation Commission	1,770,000	0	1,770,000
Deaf and Hard of Hearing	149,415	105,000	254,415
Office for Children	170,371,649	0	170,371,649
Chelsea Soldiers' Home	6,819,000	132,000	6,951,000
Holyoke Soldiers' Home	6,810,240	88,000	6,898,240
Department of Youth Services	72,524	0	72,524
Transitional Assistance	321,613,588	32,500,000	354,113,588
Department of Public Health	73,118,414	43,499,051	116,617,465
Department of Social Services	223,857,894	0	223,857,894
Department of Mental Health	62,234,184	6,125,000	68,359,184
Department of Mental Retardation	322,663,338	100,000	322,763,338
Total Health and Human Services	3,357,560,535	147,549,051	3,505,109,586
Transportation and Construction			
Office of the Secretary	914,129	27,345	941,474
Mass Aeronautics Commission	266,099	0	266,099
Department of Public Works	6,588,476	0	6,588,476
Total Transportation and Construction	7,768,704	27,345	7,796,049

Chap. 194

	FY99 Unrestricted Non-Tax	FY99 Restricted Non-Tax	FY99 Total Non-Tax
Board of Library Commissioners	1,212	0	1,212
Labor, Education and Workforce Development			
Office of Director of Labor	10,026,358	0	10,026,358
Department of Industrial Accidents	22,004,336	0	22,004,336
Labor Relations Commission	150	0	150
Conciliation & Arbitration Board	77,648	0	77,648
Office of Communities and Development	3,090,938	801,000	3,891,938
Consumer Affairs and Business Regulation	0	0	0
Division of Banks	10,337,450	0	10,337,450
Division of Insurance	19,936,103	0	19,936,103
Division of Registration	10,226,151	0	10,226,151
Division of Standards	1,427,400	338,000	1,765,400
Telecommunications and Energy	13,911,193	0	13,911,193
Energy Facilities Siting Commission	0	225,000	225,000
Alcohol Beverages Control Commission	1,548,959	0	1,548,959
State Racing Commission	1,926,000	0	1,926,000
Community Antenna Television Division	1,440,000	0	1,440,000
Board of Medicine	2,404,137	0	2,404,137
Economic Development	380,000	0	380,000
Division of Energy Resources	380,834	0	380,834
Department of Education	4,288,775	0	4,288,775
State and Community Colleges	46,398,035	247,100	46,645,135
University of Massachusetts	94,268,762	0	94,268,762
Total Labor, Education and Development	244,073,228	1,611,100	245,684,328
Public Safety			
Office of the Secretary	300,000	17,980	317,980
Chief Medical Examiner	848	0	848
Criminal History Systems Board	922,485	0	922,485
Board of Building Regulations	230,000	40,000	270,000
Architectural Access Board	15,000	0	15,000
Department of State Police	815,000	14,350,000	15,165,000
Criminal Justice Training Council	1,172,000	0	1,172,000
Department of Public Safety	8,778,562	0	8,778,562
Department of Fire Services	2,672,459	0	2,672,459

Chap. 194

	FY99 Unrestricted Non-Tax	FY99 Restricted Non-Tax	FY99 Total Non-Tax
Registry of Motor Vehicles	279,452,943	7,800,000	287,252,943
Merit Rating Board	50,000	0	50,000
Military Division	69,500	340,000	409,500
Emergency Management Agency	679,619	0	679,619
Highway Safety Bureau	170,000	0	170,000
Department of Corrections	7,079,745	3,067,995	10,147,740
Sheriffs	899,162		899,162
Parole Board	6,750	0	6,750
Total Public Safety	303,314,073	25,615,975	328,930,048
Elder Affairs	305,069	3,000,000	3,305,069
Legislature	21,500	0	21,500
	4,844,096,040	800,119,846	5,644,215,886

SECTION 2.

JUDICIARY.

Notwithstanding the provisions of section 1 to the contrary, except as otherwise provided, items 0320-0001 to 0339-2100 are charged as follows:

Local Aid Fund	90.0%
General Fund	10.0%

Supreme Judicial Court.

0320-0001	For the office of the chief justice and the six associate justices.	\$863,886
0320-0003	For the operation of the supreme judicial court; provided, that not more than \$65,000 shall be made available and expended exclusively for the annual salary of an information technology director; provided further, that \$65,000 shall be made available and expended exclusively for the annual salary of a coordinator of judicial evaluation; provided further, that \$87,052 shall be expended for the judicial youth corporation program; and provided further, that not more than \$61,200 shall be expended for a quarterly judicial newsletter	\$4,173,886
0320-0006	For the expenses of the future lab task force projects	\$100,000

Chap. 194

0320-0010	For the operation of the clerk's office of the supreme judicial court for Suffolk county; provided, that funds may be expended for an electronic management imaging project in fiscal year 1999; and provided further, that said clerk shall submit not later than January 1, 1999, a report detailing the status of said project to the house and senate committees on ways and means	\$1,004,596
0321-0001	For the operation of the commission on judicial conduct; provided, that \$35,725 shall be made available and expended exclusively for the annual salary of an attorney; and provided further, that \$25,026 shall be made available and expended exclusively for the annual salary of a paralegal in fiscal year 1999	\$382,015
0321-0100	For the services of the board of bar examiners; provided, that \$50,000 shall be made available and expended exclusively for the annual salary of an assistant executive secretary in fiscal year 1999	\$892,208

Committee for Public Counsel Services.

0321-1500	For the operation of the committee for public counsel services, as authorized by chapter 211D of the General Laws, including expenses for an audit and oversight unit; provided, that the committee shall not institute in fiscal year 1999 any reduction in the staffing levels in effect as of May 1, 1998; and provided further, that said provision shall apply to items 0321-1502 and 0321-1504	\$6,701,875
0321-1502	For compensation to public counsel assigned cases under the provisions of subsection (a) of section 6 of chapter 211D of the General Laws, pursuant to section 13 of said chapter 211D, including compensation for the chief counsel, deputy chief counsels, and general counsel	\$7,178,227
0321-1503	For the children and family law offices pursuant to section 6A of chapter 211D of the General Laws; and section 213 of this act	\$641,382
0321-1504	For the continuation of a youth advocacy program, so-called.	\$435,542
0321-1510	For compensation paid to private counsel assigned to criminal cases under the provisions of subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that the amount appropriated herein shall be expended for services rendered in	

Chap. 194

	fiscal year 1999 only; provided further, that the chief counsel may transfer funds to item 0321-1512 as necessary, pursuant to schedules submitted to the house and senate committees on ways and means 30 days prior to any such transfer; and provided further, that the rates of compensation paid for private counsel services from this item shall be the same as the rates paid in fiscal year 1998. . .	\$43,500,000
0321-1512	For compensation paid to private counsel assigned to family law and mental health cases under the provisions of subsection (b) of section 6 of chapter 211D of the General Laws, pursuant to section 12 of said chapter 211D; provided, that the amount appropriated herein shall be expended for services rendered in fiscal year 1999 only; provided further, that the chief counsel may transfer funds to item 0321-1510 as necessary, pursuant to schedules submitted to the house and senate committees on ways and means 30 days prior to any such transfer; and provided further, that the rates of compensation paid for private counsel services from this item shall be the same as the rates paid in fiscal year 1998	\$21,000,000
0321-1520	For fees and costs as defined in section 27A of chapter 261 of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in said section 27A of said chapter 261; provided, that the amount appropriated herein shall only be expended for services rendered in fiscal year 1999	\$4,695,694
0321-1600	For the Massachusetts Legal Assistance Corporation to provide legal representation for indigent or otherwise disadvantaged residents of the commonwealth, including the disability benefits project, the Medicare advocacy project, and the battered women's legal assistance project; provided, that the first paragraph of section 9 of chapter 221A of the General Laws shall not apply to said programs; and provided further, that said corporation may contract with any organization for the purpose of providing such representation	\$3,453,119
0321-1610	For the Massachusetts Legal Assistance Corporation for the purpose of distributing funds for general operating costs of local and statewide civil legal services providers	\$3,800,000

Chap. 194

0321-2000	For the operation of the mental health legal advisors committee and for certain programs for the indigent mentally ill, as provided in section 34E of chapter 221 of the General Laws	\$406,330
0321-2100	For the Massachusetts correctional legal services committee; provided, that not more than \$50,000 shall be expended exclusively for an additional attorney position in fiscal year 1999	\$576,782
0321-2205	For the expenses of the social law library located in Suffolk county; provided, that not less than \$192,000 shall be made available for computerized legal research	\$1,625,000
0321-2206	For the social law library to operate the electronic law database project	\$300,000

Appeals Court.

0322-0100	For the appeals court, including the salaries, traveling allowances, and expenses of the chief justice and the 13 associate justices and the expenses of the conference program, so-called; provided, that \$36,329 shall be made available for one court officer; provided further, that \$35,679 shall be made available for one deputy fiscal officer; provided further, that \$22,235 shall be made available for one procedures clerk II; and provided further, that \$124,320 shall be made available for 6 law clerks in fiscal year 1999	\$6,197,642
-----------	--	-------------

Trial Court.

0330-0101	For the salaries of the justices of the superior court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer	\$8,321,577
0330-0102	For the salaries of the justices of the district court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer. . .	\$17,481,024

Chap. 194

- 0330-0103 For the salaries of the justices of the probate and family court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$4,531,461
- 0330-0104 For the salaries of the justices of the land court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer. \$425,502
- 0330-0105 For the salaries of the justices of the Boston municipal court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer \$1,162,469
- 0330-0106 For the salaries of the justices of the housing court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer. \$951,907
- 0330-0107 For the salaries of the justices of the juvenile court department of the trial court; provided, that the chief justice for administration and management shall provide written notification to the house and senate committees on ways and means of any transfers of funds from this item to any other item of appropriation within 30 days of such transfer. . . . \$3,899,775
- 0330-0300 For the administration of the office of the chief justice for administration and management, including the salary of said chief justice for administration and management; provided, that the supreme judicial court shall not charge the trial court for any assessments, services, education, training, or costs of any kind \$6,496,721
- 0330-0301 For the salary and expenses of the executive director and staff of the trial court office of community corrections; pro-

vided, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$211,000 shall be expended for the operation of the Suffolk county courts' community service program, so-called, to be supervised by the chief justice for administration and management; provided further, that \$90,000 shall be expended for a "drug treatment on demand" drug offender program, so-called, in the district court of Lawrence; provided further, that \$150,000 shall be expended on an alternative probation program "honor court", so-called, in the district court of Hampshire (Northampton); and provided further, that not more than \$50,000 shall be expended for a study to establish for offenders convicted of repeat drunk driving offenses an intermediate sanction secure residential facility that shall provide rehabilitative treatment and an aftercare monitoring program \$2,718,338

0330-0302 For the cost of intensive supervision and community corrections programs; provided, that said programs shall include, but not be limited to, tracking, community service, educational assistance, drug and alcohol testing and treatment, curfew enforcement, home confinement, day reporting, means-tested fines, restitution, and community incapacitation or restraint; provided further, that the number of placements in said programs shall not exceed a daily average goal of 5,000 intensively-supervised probationers; provided further, that \$156,000 shall be expended for the purpose of providing a community services for women program in the district court of Southern Essex; provided further, that funds from this item shall be expended to cover the costs of said programs that are undertaken and administered by court probation offices and county sheriffs' offices; provided further, that said funds shall be expended for the purpose of providing said programs in Barnstable, Berkshire, Bristol, Dukes, Essex, Franklin, Hampden, Hampshire, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester counties in fiscal year 1999; provided further, that the executive director of the office of community corrections of the trial court shall enter into interagency service agreements and memoranda of understanding with said probation offices and sheriffs'

	offices for the provision of said programs, including the contracting for detention space for probationers arrested for violating probation and awaiting court action and detention space for probationers who have been ordered by the trial court to be supervised at a higher level of restraint; provided further, that said agreements and memoranda shall be entered into at the direction of said executive director; provided further, that said executive director shall submit a spending and management plan for said programs to the house and senate committees on ways and means not later than September 15, 1998; provided further, that said plan shall include the projected number of probationers to be served by each such program and include a description of the oversight and services provided to said probationers, and provided further, that the amount appropriated herein shall fund the annualization of such programs commenced in fiscal year 1998 pursuant to contracts established between said office and sheriffs' offices	\$6,000,000
0330-0317	For the operation and expenses of the Massachusetts sentencing commission, pursuant to chapter 211E of the General Laws	\$318,104
0330-0400	For the non-employee services performed by private individuals and contracted services performed by agencies for the individual court divisions of the trial court to be expended as determined by the chief justice for administration and management; provided, that contracting for non-employee assigned interpretive services and contracting with agencies or providers for assigned interpretive services shall not give rise to enforceable legal rights in any party or an enforceable entitlement to interpretive services; provided further, that interpretive services shall be provided by interpreters who have a place of business in the county or within 20 miles of the county where the subject court is located and a permanent court interpreter program shall be established within the counties of Hampden, Hampshire, Berkshire and Franklin with the goal of ensuring that interpretive services be provided by interpreters who have a place of business in said counties; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or	

such enforceable entitlement; provided further, that in contracting for services to provide interpreters to persons who are deaf or hard of hearing, the trial court shall maximize the use of interpreter services provided by the Massachusetts commission for the deaf and hard of hearing whenever possible; provided further, that the chief justice for administration and management shall contact and enter into contract with interpreters for the deaf, not later than 24 hours prior to all cases where said interpreters may be needed; provided further, that said contracted interpreters shall be funded at existing rates; provided further, that not less than \$100,000 shall be provided for a contract with Massachusetts General Hospital for a research program on abused children; and provided further, that not less than \$85,000 shall be expended for a partnership between the administrative office of the trial court and the University of Massachusetts for the development and implementation of a plan to increase the number of qualified, certified foreign language interpreters available for court interpretation services \$18,731,540

0330-0410 For alternative dispute resolution services for the trial court; provided, that such services shall be made available to the extent possible in connection with child care, protection and custody proceedings in juvenile and probate courts; provided further, that not less than \$35,000 shall be expended for Framingham mediation services; and provided further, that not less than \$30,000 shall be expended for Fitchburg mediation services \$115,000

0330-0600 For dental and optical health plan trust agreements \$2,889,744

0330-1000 For trial court jury expenses \$3,220,757

0330-2000 For the trial court law libraries; provided, that the chief justice for administration and management shall collaborate with the Massachusetts Bar Association, the Boston Bar Association and law schools in the commonwealth in developing a voluntary library assistance program; and provided further, that not less than \$33,000 shall be expended for a pilot project at the Norfolk county law library for the staffing of night time service \$1,929,432

0330-2002 For the maintenance, purchase and binding of trial court law library materials \$2,458,781

Chap. 194

0330-2010	For the costs associated with computerized legal research	\$253,084
0330-2020	For centralized law book purchases	\$463,638
0330-2200	For the rental of county court facilities, in accordance with section 4 of chapter 29A of the General Laws; provided, that all payments made hereunder shall be made pursuant to written agreements; provided further, that quarterly payments shall be made to counties equal to an amount which shall be at least 90 per cent of the amount owed each quarter to such county in the preceding fiscal year, subject to reconciliation based on accurate cost data in the fourth quarter or in the succeeding fiscal year; provided further, that payments made to any county which fails to submit required cost data by the beginning of the third quarter of the fiscal year shall be withheld until such data is submitted to the chief justice for administration and management and approved as accurate; provided further, that said cost data shall be filed with the house and senate committees on ways and means; provided further, that every county receiving such payments shall maintain such funds in a separate account which shall be used solely for the maintenance of the rented facilities; provided further, that each county advisory board, upon receipt of the proposed budget by the county commissioners, shall have final approval of all expenditures under this item; and provided further, that no funds from this account shall be expended on trial court telecommunications costs or rental of private or municipal court facilities	\$8,401,707
	Local Aid Fund	100.0%
0330-2201	For the purchase, maintenance and lease of statewide telecommunications for the trial court; provided, that not less than \$255,000 shall be expended for data lines for the warrant management system	\$2,928,432
0330-2202	For the payment of private and municipal court leases; provided, that the administrative office of the trial court shall, in conjunction with the division of capital asset management and maintenance, lease no more than 2,500 square feet of additional office space in the town of Edgartown; and provided further, that said space shall be made available to the probate court of Dukes county. . .	\$7,802,493

Chap. 194

- 0330-2205 For the costs associated with maintaining and operating courthouse facilities owned by the commonwealth; provided, that all maintenance personnel employed by Worcester, Hampden, and Hampshire counties in fiscal year 1998 shall be reclassified as state employees for fiscal year 1999 and shall be compensated from this item; and provided further, that one additional trade worker shall be appointed and funded from this item in fiscal year 1999. . . \$20,952,456
- 0330-2207 For the costs associated with maintaining and operating the New Chardon street courthouse in Boston and the Fenton Judicial Center in Lawrence; provided, that no funds shall be expended from this item until judicial personnel occupy said courthouses; provided further, that no funds may be expended for the purposes stated herein from any other item of appropriation; and provided further, that no funds shall be transferred from this item to any other item of appropriation, pursuant to section 423 of this act \$1,822,350
- 0330-2300 For the costs of witness fees \$425,000
- 0330-2410 For the operation of the judicial training institute; provided, that not less than \$100,000 shall be expended for the training of court personnel on domestic violence issues; and provided further, that not less than \$100,000 shall be expended for a substance abuse training program \$777,334
- 0330-2600 For the travel expenses of judicial personnel; provided, that the chief justice for administration and management shall promulgate rules and regulations governing the selection of justices for travel outside of the commonwealth for the purpose of judicial training; and provided further, that said rules and regulations shall give first priority to newly appointed justices for such training \$1,364,937
- 0330-2700 For trial court printing expenses; provided, that the trial court shall maximize to the extent possible the use of recycled paper and soy-based ink products for any document printing and purchasing \$1,977,955
- 0330-2800 For the cost of equipment purchases, rentals, maintenance and repairs; provided, that such purchases and rentals may be allocated by the chief justice for administration and management; and provided further, that in purchasing such equipment, the chief justice for administration and

	management shall utilize vendors approved by the state purchasing agent for such equipment whenever the terms offered by such vendors are more favorable than those otherwise available	\$3,402,908
0330-3200	For the court security program, including personnel and expenses; provided, that security guards and court officers may be available for assignment in accordance with juvenile court expansion funded pursuant to item 0337-0003; provided further, that all other per diem court officers shall be paid the daily rate in accordance with collective bargaining agreements; provided further, that 1 additional court officer shall be funded from this item and assigned to the district court of Newburyport in fiscal year 1999; provided further, that 3 additional court officers, and 2 additional security guards shall be funded from this item and assigned to the second district court of Bristol at Fall River in fiscal year 1999; provided further, that any security personnel employed by Hampden and Hampshire counties in fiscal year 1998 shall be reclassified as state employees for fiscal year 1999 and shall be compensated from this item; and provided further, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 detailing the number of court officers and security personnel located in each trial court of the commonwealth	\$39,027,968
0330-3300	For the payment of office, administrative and special expenses of the trial court to be allocated by the chief justice for administration and management	\$797,629
0330-3700	For the court interpreters program; provided, that the chief justice for administration and management shall establish and direct a policy for the scheduling of court sessions in all court departments to cost-effectively utilize court language interpreters; provided further, that not less than \$90,000 shall be expended for a court interpreter pilot program in the superior court located in the city of Fall River and said court shall provide one court interpreter, one clerical support position and office space, if available, for said program	\$379,986

Chap. 194

0330-4100	For a trial court vacancy pool and reserve; provided, that not later than March 1, 1999, the chief justice for administration and management shall submit a report to the house and senate committees on ways and means detailing all assignments and allocations funded from this item	\$1,500,000
0330-4303	For the chargeback costs of unemployment compensation, medicare tax, workers' compensation, universal health and group insurance assessed against the employees and justices of the trial court	\$5,862,890

Superior Court Department.

0331-0100	For the administrative office of the superior court department; provided, that not more than \$75,000 shall be expended for judicial education, including the semi-annual conferences, racial and gender bias orientation programs and judicial induction ceremonies	\$6,733,359
0331-0300	For medical malpractice tribunals established in accordance with the provisions of section 60B of chapter 231 of the General Laws	\$77,800
0331-2100	For the Barnstable superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$464,101
0331-2200	For the Berkshire superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel	

Chap. 194

	employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$282,562
0331-2300	For the Bristol superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,128,835
0331-2400	For the Dukes superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$143,246
0331-2500	For the Essex superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff	

	services and record keeping; and provided further, that two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999	\$1,670,959
0331-2600	For the Franklin superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$324,705
0331-2700	For the Hampden superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,393,742
0331-2800	For the Hampshire superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$327,977

Chap. 194

- 0331-2900 For the Middlesex superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; and provided further, that 1 additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999 \$3,739,087
- 0331-3000 For the Nantucket superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping \$129,126
- 0331-3100 For the Norfolk superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping \$1,382,479
- 0331-3200 For the Plymouth superior court; provided, that notwithstanding the provisions of any general or special

	law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$1,296,048
0331-3300	For the Suffolk superior civil court; provided further, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping	\$3,573,800
0331-3400	For the Suffolk superior criminal court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, that as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping; provided further, that not less than \$65,000 shall be expended on said clerk's duties as clerk of the appellate division for the superior court for the commonwealth; provided further, that not less than \$46,000 shall be expended for the purpose of holding the unified session for sexually dangerous persons pursuant to section 9 of chapter 123A	

Chap. 194

of the General Laws; provided further, that \$13,000 shall be expended for five summer interns in fiscal year 1999; and provided further, that one additional assistant clerk and one additional head administrative assistant position shall be appointed and funded from this item during fiscal year 1999 \$2,313,341

0331-3404 For an education and community outreach pilot program to be administered in the Suffolk superior criminal court \$159,781

0331-3500 For the Worcester superior court; provided, that notwithstanding the provisions of any general or special law to the contrary, the first justice shall be the administrative head of the court and shall have the powers enumerated in section 10A of chapter 211B of the General Laws; provided further, as administrative head, said first justice shall be responsible for the management of the courthouse and shall have authority over all personnel employed by the superior court department; and provided further, that the clerk of the court shall have responsibility for the internal administration of his office, including personnel, staff services and record keeping \$1,364,645

District Court Department.

0332-0100 For the administrative office of the district court department, including a civil conciliation program \$1,354,863

0332-1100 For the first district court of Barnstable \$1,737,554

0332-1200 For the second district court of Barnstable at Orleans; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999 \$992,007

0332-1203 For the third district court of Barnstable at Falmouth \$936,221

0332-1300 For the district court of northern Berkshire at Adams, North Adams and Williamstown; provided, that one additional procedures clerk I shall be funded from this item in fiscal year 1999 \$672,211

0332-1400 For the district court of central Berkshire at Pittsfield \$1,112,693

0332-1500 For the district court of southern Berkshire at Great Barrington and Lee \$455,215

0332-1600 For the first district court of Bristol at Taunton; provided, that two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999 \$1,808,283

Chap. 194

0332-1700	For the second district court of Bristol at Fall River; provided, that six additional procedures clerk II positions, one additional head administrative assistant, three additional probation officers, and three additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999	\$2,790,663
0332-1800	For the third district court of Bristol at New Bedford; provided, that two additional assistant clerk magistrates, and two additional session clerks shall be appointed and funded from this item in fiscal year 1999	\$2,637,228
0332-1900	For the fourth district court of Bristol at Attleboro; provided, that one additional assistant clerk magistrate, and one additional probation officer, shall be appointed and funded from this item in fiscal year 1999	\$1,177,101
0332-2000	For the district court of Edgartown	\$320,984
0332-2100	For the first district court of Essex at Salem; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,836,478
0332-2300	For the third district court of Essex at Ipswich	\$315,477
0332-2400	For the central district court of northern Essex at Haverhill; provided, that one additional head administrative assistant to serve in the probation department, and one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,826,244
0332-2500	For the district court of eastern Essex at Gloucester	\$889,881
0332-2600	For the district court of Lawrence; provided, that two additional probation officers, two additional sessions clerks, two additional procedures clerk I positions, and one additional interpreter II shall be appointed and funded from this item in fiscal year 1999	\$2,730,562
0332-2700	For the district court of southern Essex at Lynn	\$2,480,156
0332-2800	For the district court of Newburyport; provided, that one additional administrative assistant II to serve in the clerk's office, one additional probation officer, one additional administrative secretary to serve in the judges lobby, one additional head administrative assistant to serve in the probation department, and one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,558,927

Chap. 194

0332-2900	For the district court of Peabody; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,256,736
0332-3000	For the district court of Greenfield; provided, that one additional position shall be funded from this item and assigned to the judge's lobby in fiscal year 1999; and provided further, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,135,989
0332-3100	For the district court of Orange	\$483,629
0332-3200	For the district court of Chicopee; provided, that one additional secretary I, and one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,022,103
0332-3300	For the district court of Holyoke	\$963,590
0332-3400	For the district court of eastern Hampden at Palmer	\$747,117
0332-3500	For the district court of Springfield	\$3,713,059
0332-3600	For the district court of western Hampden at Westfield	\$752,587
0332-3700	For the district court of Hampshire at Northampton	\$1,606,866
0332-3800	For the district court of eastern Hampshire at Ware; provided, that one additional probation officer, and one additional procedures clerk I shall be appointed and funded from this item in fiscal year 1999	\$589,692
0332-3900	For the district court of Lowell	\$2,965,095
0332-4000	For the district court of Somerville	\$2,303,729
0332-4100	For the district court of Newton	\$965,071
0332-4200	For the district court of Marlborough	\$1,094,913
0332-4300	For the district court of Natick; provided, that one additional procedures clerk II shall be appointed and funded from this item in fiscal year 1999	\$835,739
0332-4400	For the first district court of eastern Middlesex at Malden; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,916,518
0332-4500	For the second district court of eastern Middlesex at Waltham. . .	\$1,404,833
0332-4600	For the third district court of eastern Middlesex at Cambridge. . .	\$3,209,170
0332-4700	For the fourth district court of eastern Middlesex at Woburn. . .	\$2,008,453
0332-4800	For the first district court of northern Middlesex at Ayer	\$1,143,953

Chap. 194

0332-4900	For the first district court of southern Middlesex at Framingham	\$1,952,503
0332-5000	For the district court of central Middlesex at Concord	\$1,232,394
0332-5100	For the district court of Nantucket	\$231,798
0332-5200	For the district court of northern Norfolk at Dedham	\$1,912,049
0332-5300	For the district court of East Norfolk at Quincy; provided, that one additional probation officer shall be appointed and funded from this item in fiscal year 1999	\$4,254,674
0332-5400	For the district court of western Norfolk at Wrentham	\$1,336,427
0332-5500	For the district court of southern Norfolk at Stoughton; provided, that one additional administrative assistant I, and two additional sessions clerks shall be appointed and funded from this item in fiscal year 1999	\$1,651,263
0332-5600	For the municipal court of Brookline	\$827,193
0332-5700	For the district court of Brockton; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$3,039,595
0332-5800	For the second district court of Plymouth at Hingham; provided, that two additional sessions clerks, one additional administrative assistant, and one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,712,969
0332-5900	For the third district court of Plymouth at Plymouth; provided, that one additional probation officer shall be appointed and funded from this item in fiscal year 1999	\$1,796,234
0332-6000	For the fourth district court of Plymouth at Wareham	\$1,434,921
0332-6100	For the district court of Brighton	\$1,216,392
0332-6200	For the district court of Charlestown	\$739,394
0332-6300	For the district court of Chelsea; provided, that notwithstanding the provisions of any general or special law to the contrary, said district court shall be the permanent location for the northern trial session, to handle six person jury cases; provided further, that all personnel within said district court whose duties relate to said northern trial session shall report to the clerk magistrate of said district court; and provided further, that one additional head administrative assistant, one additional administrative assistant II, and two additional assistant clerk magistrates	

Chap. 194

	shall be appointed and funded from this item in fiscal year 1999	\$2,141,584
0332-6400	For the municipal court of the Dorchester district; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$3,997,175
0332-6500	For the district court of East Boston	\$1,697,766
0332-6600	For the district court of Roxbury	\$3,448,041
0332-6700	For the district court of South Boston; provided, that two additional procedures clerk II positions, and one additional head procedures clerk shall be appointed and funded from this item in fiscal year 1999	\$967,085
0332-6800	For the district court of West Roxbury; provided, that two additional administrative assistant I positions, two additional assistant clerk magistrates, and one additional probation officer shall be appointed and funded in fiscal year 1999	\$2,067,022
0332-6900	For the central district court of Worcester; provided, that three additional procedures clerk II positions shall be appointed and funded from this item in 1999	\$3,776,216
0332-7000	For the district court of Fitchburg; provided, that two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999	\$1,227,449
0332-7100	For the district court of Leominster; provided, that two additional probation officers shall be appointed and funded from this item in fiscal year 1999	\$814,516
0332-7200	For the district court of Winchendon; provided, that two additional account clerk I positions and one additional procedures clerk I shall be appointed and funded from this item in fiscal year 1999	\$191,829
0332-7300	For the first district court of northern Worcester at Gardner; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,022,601
0332-7400	For the first district court of eastern Worcester at Westborough	\$1,042,078
0332-7500	For the second district court of eastern Worcester at Clinton; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$631,751

Chap. 194

0332-7600	For the first district court of southern Worcester at Dudley; provided, that one additional procedures clerk II, to serve the presiding justice of said court, shall be appointed and funded from this item in fiscal year 1999	\$1,164,384
0332-7700	For the second district court of southern Worcester at Uxbridge	\$710,922
0332-7800	For the third district court of southern Worcester at Milford	\$920,368
0332-7900	For the district court of western Worcester at East Brookfield.	\$824,094
0332-8000	For the development of an early intervention project for substance abusers at the Cambridge division of the district court department; provided, that such project shall be administered by a seven member executive board consisting of the first justice of the Cambridge court or his designee, the clerk of the Cambridge court or his designee, the chief probation officer of the Cambridge court or his designee, the Middlesex county district attorney or his designee, the city manager of the city of Cambridge or his designee, the chief administrative justice of the trial court or his designee and one person to be appointed by the governor; and provided further, that the employment conditions of the project director and the allocation of project funds shall be determined by the executive board.	\$90,000

Probate and Family Court Department.

0333-0002	For the administrative office of the probate and family court department; provided, that not less than \$48,000 shall be expended for a case manager who shall report directly to the chief justice of the probate and family court department; provided further, that such case manager shall assist said chief justice with the management of petitions to dispense with parental consent to adoption pursuant to section 3 chapter 210 of the General Laws by coordinating department of social services and probate court actions related to such cases; provided further, that such case manager's duties shall include coordinating conferences and trials and monitoring paperwork and appointments with parties' counsel; provided further, that such case manager shall meet monthly with the department of social services and shall report quarterly to the house and senate committees on ways and means on the backlog of such
-----------	---

Chap. 194

	cases in the probate court and the parties' progress made in such backlog each month; provided further, that \$37,291 shall be expended for the salary of an alternative dispute resolution coordinator; provided further, that there shall be one law clerk for each of the 14 probate courts; and provided further, that six additional law clerks shall be funded from this item in fiscal year 1999	\$1,370,01
0333-0100	For the Barnstable probate court; provided, that one additional assistant chief probation officer, and one additional assistant register shall be appointed and funded from this item in fiscal year 1999	\$1,262,841
0333-0150	For the operation of a child and parents program in the Barnstable probate court; provided, that this item shall not be subject to paragraphs (a) and (b) of clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws	\$60,000
0333-0200	For the Berkshire probate court; provided, that one additional procedures clerk II shall be appointed and funded from this item in fiscal year 1999	\$685,888
0333-0300	For the Bristol probate court; provided, that the first justice of the Bristol probate and family court shall appoint three additional deputy assistant registers to be funded from this item in fiscal year 1999, pursuant to section 224; provided further, that one additional head procedures clerk, three additional procedures clerk I positions, three additional assistant registers, two additional sessions clerks, and one additional switchboard operator shall be funded from this item in fiscal year 1999	\$2,231,777
0333-0400	For the Dukes probate court; provided, that one additional procedures clerk I shall be appointed and funded from this item in fiscal year 1999	\$234,171
0333-0500	For the Essex probate court; provided, that one additional procedures clerk II, and one additional sessions clerk shall be appointed and funded from this item in fiscal year 1999. . . .	\$2,223,843
0333-0600	For the Franklin probate court	\$629,834
0333-0700	For the Hampden probate court provided, that one additional procedures clerk I and one administrative assistant II shall be appointed and funded from this item in fiscal year 1999. . . .	\$2,147,656
0333-0711	For the Hampden probate court family services clinic	\$50,000

Chap. 194

0333-0800	For the Hampshire probate court; provided, that two deputy assistant registers shall be appointed and funded from this item in fiscal year 1999, pursuant to section 225	\$863,236
0333-0900	For the Middlesex probate court; provided, that one additional assistant register, one additional head procedures clerk, two additional sessions clerks, two additional administrative assistants, and one additional procedures clerk I, shall be appointed and funded from this item in fiscal year 1999	\$4,192,550
0333-0911	For the Middlesex probate court family services clinic	\$196,391
0333-1000	For the Nantucket probate court	\$182,112
0333-1100	For the Norfolk probate court	\$2,510,002
0333-1111	For the Norfolk probate court family services clinic; provided, that one additional social worker and one additional clinical psychiatrist shall be appointed and funded from this item in fiscal year 1999	\$238,143
0333-1200	For the Plymouth probate court; provided, that the first justice of said court shall appoint two additional deputy assistant registers to be funded from this item in fiscal year 1999, pursuant to section 226 of this act; and provided further, that two additional assistant registers shall be appointed and funded in fiscal year 1999	\$1,934,919
0333-1300	For the Suffolk probate court	\$2,900,517
0333-1313	For the Suffolk probate community access program of community outreach and education; provided, that said program shall be targeted at low income persons who experience educational and language barriers to court access; and provided further, that said program shall be administered by the register of probate of Suffolk county.	\$138,921
0333-1400	For the Worcester probate court; provided, that one additional head procedures clerk and one additional assistant register shall be appointed and funded from this item in fiscal year 1999	\$2,219,684
0333-1411	For the Worcester probate court family services clinic	\$213,046

Land Court Department.

0334-0001	For the operation of the land court	\$2,485,761
-----------	---	-------------

Boston Municipal Court Department.

0335-0001	For the operation of the Boston municipal court; provided, that two additional probation officers and two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999	\$7,920,615
-----------	---	-------------

Housing Court Department.

0336-0002	For the administrative office of the housing court department; provided, that any division of the housing court department, as defined in section 4 of chapter 185C of the General Laws, shall hold its sittings in the facilities of the district court of central Berkshire county in the city of Pittsfield not less than once per month; provided further, that such sitting shall be held by an associate justice of the trial court appointed to a division of the housing court department	\$128,157
0336-0100	For the Boston housing court; provided, that one additional assistant chief housing specialist, one additional procedures clerk I, and one additional head administrative assistant shall be appointed and funded from this item in fiscal year 1999	\$1,107,523
0336-0200	For the Hampden housing court; provided, that one additional chief housing specialist, one additional procedures clerk I, and one administrative secretary shall be appointed and funded from this item in fiscal year 1999	\$588,802
0336-0300	For the Worcester housing court; provided, that one additional head procedures clerk, and one additional procedures clerk II shall be funded from this item and appointed to serve in the court jurisdiction of southern Worcester in fiscal year 1999; provided further, that one additional assistant clerk magistrate, one additional housing specialist, two additional sessions clerks, and two additional procedures clerk I positions shall be appointed and funded from this item in fiscal year 1999	\$710,101
0336-0400	For the Southeastern housing court; provided, that one additional procedure clerk II shall be appointed and funded from this item in fiscal year 1999	\$707,412
0336-0500	For the Northeastern housing court; provided, that three additional housing specialists, two additional procedures	

Chap. 194

clerk I positions, one additional procedures clerk II, and one additional administrative assistant shall be appointed and funded from this item in fiscal year 1999, pursuant to section 197 of this act \$534,580

Juvenile Court Department.

- 0337-0002 For the administrative office of the juvenile court department. \$789,117
- 0337-0003 For the personnel and expenses associated with the expansion of the juvenile court, including Berkshire, Essex, Hampshire/Franklin, Hampden, Middlesex, Norfolk, Plymouth, Suffolk, Worcester and Nantucket/Dukes counties; provided, that \$80,000 shall be expended on the CASA program, so-called, in the Lawrence district court; provided further, that \$80,000 shall be expended for the CASA program in the Worcester juvenile court; provided further, that \$80,000 shall be expended for the CASA program in the Plymouth county juvenile court; provided further, that \$80,000 shall be expended for the Franklin/Hampshire CASA program, including Northampton, Greenfield, Orange and Ware district courts; provided further, that \$50,000 shall be expended for a Berkshire CASA program in the Berkshire county juvenile court; provided further, that one additional first assistant clerk magistrate and one additional assistant clerk magistrate shall be funded from this item and appointed to the Plymouth county division pursuant to section 236 in fiscal year 1999; and provided further, that two additional assistant clerk magistrates shall be funded from this item and appointed to the Middlesex county division, pursuant to section 236 in fiscal year 1999 \$15,872,850
- 0337-0100 For the Boston juvenile court; provided, that two additional assistant clerk magistrates shall be appointed and funded from this item in fiscal year 1999 \$3,384,653
- 0337-0200 For the Bristol juvenile court; provided, that one additional sessions clerk, one additional head administrative assistant, one additional account clerk II, and two additional assistant clerk magistrates, to serve in the clerk's department shall be appointed and funded from this item in fiscal year 1999. ... \$2,614,562
- 0337-0300 For the Springfield juvenile court; provided, that \$82,350 shall be expended for the CASA program, so-called, in the Springfield juvenile court \$1,362,615

Chap. 194

0337-0400	For the Worcester juvenile court; provided, that one additional assistant clerk magistrate, one additional probation officer, two additional secretaries, and one additional administrative assistant shall be appointed and funded from this item in fiscal year 1999	\$1,429,439
0337-0500	For the Barnstable county, town of Plymouth juvenile court; provided, that one additional assistant clerk magistrate shall be appointed and funded from this item in fiscal year 1999	\$1,861,562
0339-1001	For the office of the commissioner of probation; provided, that the salaries of up to 205 associate probation officers shall be funded from this item in fiscal year 1999; provided further, that said commissioner of probation, subject to the approval of the chief justice for administration and management, shall appoint any associate probation officer; provided further, that said associate probation officers shall perform in-court functions only and shall assume the in-court duties of the currently employed probation officers who shall be reassigned within the probation service subject to collective bargaining agreements to perform intensive, community-based supervision of probationers, including the provisions of intensive supervision and community restraint services as described in item 0330-0302; and provided further, that three additional associate probation officers shall be funded from this item and assigned to the second district court in Bristol at Fall River in fiscal year 1999	\$9,111,427
0339-1002	For the superior court probation services	\$8,724,239

Office of the Jury Commissioner.

0339-2100	For the office of jury commissioner in accordance with chapter 234A of the General Laws; provided, that not less than \$100,000 shall be expended on a contract with the Massachusetts Institute of Social and Economic Research for that entity to conduct a study in multiple phases to assess a pilot project to test the efficacy of the implementation of a new juror summoning system to be established by the office of the jury commissioner, which shall use as its source an amalgamated list as prescribed in section 342; provided further, that results of said study and the evaluation criteria used shall be submitted to the house	
-----------	---	--

and senate committees on ways and means no later than October 1, 1999; and provided further that said report shall include a transition plan for the expansion of said pilot project statewide beginning January 1, 2000 \$1,551,102

DISTRICT ATTORNEYS.

Suffolk District Attorney.

0340-0100 For the Suffolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, the domestic violence unit, and the children's advocacy center; provided, that not less than \$125,000 shall be expended for a North Dorchester safe neighborhood initiative, so-called, in Suffolk county; provided further, that not less than \$125,000 shall be expended for a safe neighborhood initiative, so-called, in Suffolk county; provided further, that not less than \$278,713 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the city of Boston and in Suffolk county for priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and, where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$13,211,141

Chap. 194

Local Aid Fund	93.0%
Victim and Witness Assistance Fund	7.0%

Middlesex District Attorney.

0340-0200	For the Middlesex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$341,815 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the former Middlesex county in cities which shall include, but not be limited to, Lowell, Malden, Everett, Somerville, Medford, Cambridge and Woburn for priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999	\$9,470,276
Local Aid Fund	89.0%	
Victim and Witness Assistance Fund	11.0%	

Essex District Attorney.

0340-0300	For the Essex district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence
-----------	--

unit; provided, that not less than \$156,670 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the cities of Lawrence and Lynn for priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and, where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$6,407,068

Local Aid Fund 89.0%

Victim and Witness Assistance Fund 11.0%

Worcester District Attorney.

0340-0400 For the Worcester district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$126,000 shall be used for an anti-gang unit, so-called; provided further, that \$210,000 shall be expended for the costs associated with six-person jury sessions; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be

delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$6,841,763

Local Aid Fund 92.0%

Victim and Witness Assistance Fund 8.0%

Hampden District Attorney.

0340-0500 For the Hampden district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$268,500 shall be used for a specialized homicide trial unit; provided further, that not less than \$156,421 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the cities of Holyoke and Springfield for priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and, where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that not less than \$400,000 shall be expended for the continued implementation and operation of the "Hampden county anti-gang project", so-called, a comprehensive, organized and strategic effort of prosecution and law enforcement officials to identify, contain and prevent the existence, operation and mobility of gangs and gang activity and to prosecute the same; provided further, that the district attorney for Hampden county shall administer and direct said project in consultation with the chiefs of police of each city and town within Hampden county, the

state police, the sheriff of Hampden county and all appropriate federal law enforcement authorities; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$5,938,850

Local Aid Fund 87.0%

Victim and Witness Assistance Fund 13.0%

Hampshire/Franklin District Attorney.

0340-0600 For the Hampshire/Franklin district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$100,000 shall be expended for the salaries and expenses of a children's advocacy project, so-called; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$3,562,970

Chap. 194

Local Aid Fund	86.0%
Victim and Witness Assistance Fund	14.0%

Norfolk District Attorney.

0340-0700	For the Norfolk district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999	\$6,082,517
	Local Aid Fund	89.0%
	Victim and Witness Assistance Fund	11.0%

Plymouth District Attorney.

0340-0800	For the Plymouth district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$90,437 shall be expended for a community based juvenile justice , prosecution program to be administered and operated in the city of Brockton for priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and where appropriate, the department of social services, department of youth services and department of mental health pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the
-----------	--

number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$5,372,709

Local Aid Fund 88.0%

Victim and Witness Assistance Fund 12.0%

Bristol District Attorney.

0340-0900 For the Bristol district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$100,000 shall be expended to create a pilot program for a community prosecution unit, so-called, which involves three assistant district attorneys whose responsibilities would include school interaction, juvenile intervention, DARE-type activities in schools, attendance at neighborhood group meetings and prosecution of quality-of-life-type crimes from the neighborhoods; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$5,577,424

Local Aid Fund 87.0%

Victim and Witness Assistance Fund 13.0%

Cape and Islands District Attorney.

0340-1000 For the Cape and Islands district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program and the domestic violence unit; provided, that not less than \$90,245 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in Barnstable county for the priority prosecution of serious juvenile offenders and for intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and, where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$2,557,088

Local Aid Fund 83.0%

Victim and Witness Assistance Fund 17.0%

Berkshire District Attorney.

0340-1100 For the Berkshire district attorney's office, including the victim and witness assistance program, the child abuse and sexual assault prosecution program, and the domestic violence unit; provided, that not less than \$68,386 shall be expended for a community-based juvenile justice prosecution program to be administered and operated in the county of Berkshire for priority prosecution of serious juvenile offenders and intervention through coordination and cooperation with local law enforcement agencies, schools, probation and court representatives and, where appropriate, the department of social services, department of youth services and department of mental health, pursuant to section 652 of chapter 151 of the acts of 1996; provided further, that said office shall submit a report to the house and senate committees on ways and means not later than February 1, 1999 summarizing the number and

Chap. 194

type of criminal cases managed or prosecuted by said office in calendar year 1998 and the disposition or status thereof which shall be delineated by each jurisdiction of the district, juvenile, probate or superior court in which said cases were managed or prosecuted; and provided further, that said office shall submit a report detailing by case, the instances whereupon the provisions of section 70C of chapter 277 or section 2A of chapter 211D of the General Laws were applied in fiscal year 1998 and fiscal year 1999, to the house and senate committees on ways and means not later than February 1, 1999 \$2,396,684

Local Aid Fund 80.0%

Victim and Witness Assistance Fund 20.0%

District Attorneys Association.

0340-2100 For a reserve for the implementation and related expenses of the district attorney's office automation and case management and tracking system; provided, that expenses associated with said system may be charged directly to this item; provided further, that a report shall be filed with the house and senate committees on ways and means not later than January 1, 1999 detailing the status of the office automation and case management and tracking system; and provided further, that said report shall include, but not be limited to, an analysis of the total cost of the district attorneys computer network, the total cost incurred by each district attorney's office, a breakdown of fixed costs and variable costs associated with the network for each district attorneys office and a detailed summary of any policies implemented to contain the costs of said network by either the Massachusetts district attorneys association or the individual district attorney's offices; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated herein \$1,508,967

Local Aid Fund 100.0%

EXECUTIVE.

0411-1000 For the offices of the governor, the lieutenant governor, and the governor's council; provided, that the amount appropri-

ated herein maybe used at the discretion of the governor for the payment of extraordinary expenses not otherwise provided for, and maybe transferred to items of appropriation where the amounts otherwise available may be insufficient; provided further, that \$25,000 shall be expended for office supplies for the offices of the governor's council; and provided further, that not less than \$75,000 shall be expended for a program for the promotion of preventive medicine through physical fitness and sports activities in the commonwealth to be administered by the governor's committee on physical fitness and sports \$5,075,528

0411-1010 For the governor's commission on mental retardation \$203,388

SECRETARY OF STATE.

0511-0000 For the operation of the office of the secretary; provided, that \$125,000 shall be expended for the costs of complying with the provisions of chapter 281 of the acts of 1995; provided further, that not less than \$16,640 shall be expended for increased staffing of the state house tours desk; provided further, that \$175,000 shall be expended for the corporation dissolution project, so-called; provided further, that \$50,000 shall be expended for the one stop shopping program, so-called; provided further, that \$27,000 shall be expended for the limited liability partnership/corporation program, so-called; provided further, that said office shall submit a report detailing staffing patterns for each program operated by said office; provided further, that said report shall include, but not be limited to, actual and functional job titles by program, compensation rates and lengths of service for each employee; and provided further, that said office shall submit said report not later than March 1, 1999 to the house and senate committees on ways and means \$6,915,151

0511-0001 The state secretary is hereby authorized to expend revenues not to exceed \$30,000 from the sale of merchandise at the Massachusetts state house gift shop for the purpose of replenishing and restocking gift shop inventory \$30,000

0511-0200 For the operation of the state archives division \$555,783

0511-0220 For the costs associated with the archiving of artifacts recovered during the Central Artery/Third Harbor Tunnel Project, so-called \$136,200

Chap. 194

0511-0230	For the operation of the records center	\$178,560
0511-0250	For the operation of the archives facility	\$600,862
0511-0260	For the operation of the commonwealth museum	\$239,329
0517-0000	For the printing of public documents; provided, that \$70,000 shall be expended for the renovation and expansion of the State House Book Store, so-called	\$1,206,045
0521-0000	For the operation of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections; provided, that the secretary of state is hereby authorized to award grants for voter registration and education in the cities of Boston, Springfield, and Worcester; provided further, that such activity may be conducted by community-based voter registration and education organizations; and provided further, that the secretary of state shall submit a report to the house and senate committees on ways and means, not later than March 1, 1999 detailing the amount appropriated for the purposes of providing reimbursements for the costs of extended polling hours from this item to each city or town. ...	\$3,278,882
	Local Aid Fund	100.0%
0521-0001	For the operation of the central voter registration computer system; provided, that an annual report detailing voter registration activity shall be submitted to the house and senate committees on ways on or before March 1, 1999; and provided further, that a report detailing the status, remaining costs and implementation of the central voter registration system shall be submitted to the house and senate committees on ways and means not later than December 1, 1999	\$3,958,538
	Local Aid Fund	100.0%
0521-0005	The secretary of the commonwealth is hereby authorized to collect and expend an amount not to exceed \$30,000 from the fees collected from the sale of a book on the history of the state house; provided, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments an amount not to exceed the lower of this	

Chap. 194

	authorization or the most recent revenue estimate as reported in the state accounting system	\$30,000
0524-0000	For providing information to voters	\$1,740,713
	Local Aid Fund	100.0%
0526-0100	For the operation of the Massachusetts historical commission; provided, that not less than \$50,000 shall be expended for historic preservation grants; provided further, that not less than \$155,000 shall be expended to enhance the historic significance and grounds of Longfellow Park in Cambridge; provided further, that the expenditure of said funds shall be overseen by the Cambridge Historical Commission, in concert with the city of Cambridge, the Federal site administrators of the Longfellow House and the non-profit association Friends of Longfellow House; provided further, that the expenditures support capital improvements to the said park including, but not limited to, landscaping, monument restoration and improved interpretation of the site; provided further, that funds may be expended from this item for historic lighthouses; provided further, that not less than \$150,000 shall be made available for a matching grant for repairs to the exhibit hall for the Cape Museum of Fine Arts; provided further that \$150,000 be provided for the restoration and preservation of St. Alphonsus Theater in Boston in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties, as set forth in 36 C.F.R Part 68; provided further, that \$100,000 shall be provided for the restoration and preservation, including exterior stabilization, of the Brooks Estate in Medford; provided further, that a grant to the town of Framingham for the restoration of the Hollis street fire station, as appropriated in sections 2A and 2C I of chapter 88 of the acts of 1997, shall be continued in fiscal year 1999; provided further, that \$25,000 shall be provided for the Worcester woman's history project to preserve and exhibit historic artifacts; and provided further, that not less than \$15,900 shall be expended for the renovation for the Adah Hall House in the town of Pembroke, prior appropriation continued	\$1,965,900
0527-0100	For the operation of the ballot law commission	\$17,500
0528-0100	For the operation of the records conservation board	\$35,110

Chap. 194

- 0540-0000 For the purchase and installation of computer hardware and software technology for the registries of deeds; provided, that the state secretary is hereby directed to submit a spending plan on or before January 1, 1999 detailing all planned expenditures to be made from this item to the secretary of administration and finance and the senate and house committees on ways and means; provided further, that said plan shall be developed in collaboration with the registry of deeds whose operations have been transferred to the jurisdiction of said secretary; provided further, that said plan should detail the type and quantity of technology purchased and should include but not be limited to a plan to insure state wide compatibility with all other registries and users of said registries; and provided further, that no funds shall be expended or transferred from this item until said spending plan is submitted \$1,260,000
- 0540-1100 For the Franklin county registry of deeds; provided, that not later than January 1, 1999, the register shall submit a final spending plan for fiscal year 1999 to the house and senate committees on ways and means, detailing the level of resources deemed necessary for the operation of said registry; provided further, that said register shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant to the provisions of section 27 of chapter 29 of the General Laws; provided further, that all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue, including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year

	1999 and the total projected deeds excise tax revenue for fiscal year 2000	\$447,393
0540-1200	For the Hampden county registry of deeds; provided, that not later than January 1, 1999, the register shall submit a final spending plan for fiscal year 1999 to the house and senate committees on ways and means, detailing the level of resources deemed necessary for the operation of said registry; provided further, that said register shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws; provided further, that all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue, including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year 1999 and the total projected deeds excise tax revenue for fiscal year 2000	\$2,127,286
0540-1300	For the Hampshire county registry of deeds; provided, that not later than January 1, 1999, the register shall submit a final spending plan for fiscal year 1999 to the house and senate committees on ways and means, detailing the level of resources deemed necessary for the operation of said registry; provided further, that said register shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws; provided further, that all spending plans shall be detailed	

by subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue, including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year 1999 and the total projected deeds excise tax revenue for fiscal year 2000 \$423,766

0540-1400 For the Northern Middlesex registry of deeds; provided, that not later than January 1, 1999, the register shall submit a final spending plan for fiscal year 1999 to the house and senate committees on ways and means, detailing the level of resources deemed necessary for the operation of said registry; provided further, that said register shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws; provided further, that all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue, including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year

1999 and the total projected deeds excise tax revenue for
fiscal year 2000 \$1,368,799

0540-1500 For the Southern Middlesex registry of deeds; provided, that
not later than January 1, 1999, the register shall submit a
final spending plan for fiscal year 1999 to the house and
senate committees on ways and means, detailing the level
of resources deemed necessary for the operation of said
registry; provided further, that said register shall report all
expenditures on the Massachusetts management account-
ing reporting system, so-called, in accordance with the
latest expenditure classification requirements promulgated
by the state comptroller pursuant of the provisions of
section 27 of chapter 29 of the General Laws; provided
further, that all spending plans shall be detailed by
subsidiary and object code in accordance with any and all
expenditure classification requirements promulgated by the
comptroller; provided further, that said spending plans
shall be accompanied by a delineation of all personnel
employed by said registry including, but not limited to,
position, title, classification, rank, grade, salary and
full-time or part-time status; provided further, that said
spending plans shall be accompanied by a delineation of all
automated equipment owned or operated by said registry;
and provided further, that said spending plan shall include
the delineation of all sources of deeds excise tax revenue,
including, but not limited to, the total projected collection
of all deeds excise tax revenue for the end of fiscal year
1999 and the total projected deeds excise tax revenue for
fiscal year 2000 \$3,662,429

0540-2000 For the Worcester North registry of deeds; provided, that not
later than January 1, 1999, the register shall submit a final
spending plan for fiscal year 1999 to the house and senate
committees on ways and means, detailing the level of
resources deemed necessary for the operation of said
registry; provided further, that said register shall report all
expenditures on the Massachusetts management account-
ing reporting system, so-called, in accordance with the
latest expenditure classification requirements promulgated
by the state comptroller pursuant of the provisions of
section 27 of chapter 29 of the General Laws; provided
further, that all spending plans shall be detailed by

subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue, including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year 1999 and the total projected deeds excise tax revenue for fiscal year 2000 \$544,380

0540-2100 For the Worcester registry of deeds; provided, that not later than January 1, 1999, the register shall submit a final spending plan for fiscal year 1999 to the house and senate committees on ways and means, detailing the level of resources deemed necessary for the operation of said registry; provided further, that said register shall report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant of the provisions of section 27 of chapter 29 of the General Laws; provided further, that all spending plans shall be detailed by subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that said spending plans shall be accompanied by a delineation of all personnel employed by said registry including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that said spending plans shall be accompanied by a delineation of all automated equipment owned or operated by said registry; and provided further, that said spending plan shall include the delineation of all sources of deeds excise tax revenue,including, but not limited to, the total projected collection of all deeds excise tax revenue for the end of fiscal year 1999 and the total projected deeds excise tax revenue for fiscal year 2000. . . . \$2,447,974

TREASURER AND RECEIVER-GENERAL.

Office of the Treasurer and Receiver-General.

- 0610-0000 For the office of the treasurer and receiver-general; provided, that the treasurer shall provide computer services required by the teachers' retirement board; provided further, that to the extent that bank fees, so-called, exceed the amount appropriated in item 0610-0100, the treasurer is authorized to transfer to said item, subject to an allocation plan which shall be filed in advance with the house and senate committees on ways and means, from this item, sufficient funds to ensure full payment of said bank fees \$5,811,854
- General Fund 50.0%
- Local Aid Fund 40.0%
- Highway Fund 10.0%
- 0610-0100 For the payment of bank fees; provided, that the funds appropriated herein shall not be expended on administrative expenses other than those associated with the payment of bank fees \$900,000
- General Fund 50.0%
- Local Aid Fund 40.0%
- Highway Fund 10.0%
- 0610-1500 For tuition payments as required by section 12B of chapter 76 of the General Laws notwithstanding the provisions of chapter 29 of the General Laws to the contrary; provided, that the state treasurer is hereby authorized to expend in anticipation of revenue such amounts as are necessary to meet such payments; and provided further, that the state treasurer shall deduct the amount expended from this account from items 7061-0008 and 0611-5500 and from the amounts specified in section 3, in accordance with the provisions of said section 12B of said chapter 76.
- 0611-1000 For bonus payments to war veterans \$19,000
- 0611-5000 For compensation to victims of violent crimes; provided, that notwithstanding the provisions of chapter 258C of the General Laws, if a claimant is 60 years of age or older at the time of the crime and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with said chapter even if the claimant has suffered no out-of-pocket loss;

Chap. 194

	provided further, that compensation to such claimant shall be limited to a maximum of \$50; and provided further, that notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including, but not limited to, the provisions outlined in section 5 of chapter 258A of the General Laws. . . .	\$2,200,000
	General Fund	78.21%
	Victim and Witness Assistance Fund	21.79%
0611-5500	For additional assistance to cities and towns to be distributed according to the provisions of section 3 and for assistance to certain public entities of the commonwealth which have constructed water pollution abatement facilities; provided, that said distribution to said public entities shall equal \$1,249,948	\$477,565,226
	Local Aid Fund	100.0%
0611-5510	For reimbursements to cities and towns in lieu of taxes on state-owned land pursuant to sections 13 to 17, inclusive, of chapter 58 of the General Laws	\$12,000,000
	Local Aid Fund	100.0%
0611-5800	For distribution to each city and town within which racing meetings are conducted pursuant to sections 18D of chapter 58 of the General Laws	\$1,697,752
	Local Aid Fund	100.0%

Pension Benefits.

0612-0105	For payment of the public safety employee killed-in-line-of-duty benefit authorized by section 100A of chapter 32 of the General Laws	\$500,000
	Local Aid Fund	100.0%
0612-1010	For the commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws; provided, that the amount appropriated herein shall constitute the second-year payment of a 20-year, level-funded funding schedule for the commonwealth's unfunded pension liability; provided further, that said funding schedule shall be predicated upon an assumed investment rate-of-return of eight and a quarter per cent; provided further, that said amount shall meet the common-	

wealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems for the costs associated with a two and one tenth per cent cost-of-living adjustment pursuant to the provisions of section 102 of said chapter 32, reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to said section 102 of said chapter 32, for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984; provided further, that subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and district shall verify the cost thereof and the treasurer shall be authorized to make such payments upon a transfer of funds as hereinafter provided, to reimburse certain cities and towns for pensions to retired teachers and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and including the commonwealth's share of the amounts to be appropriated pursuant to section 22B of said chapter 32 and the amounts to be appropriated pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws; provided further, that all payments for the purposes herein described shall be made only pursuant to distribution of monies from said fund; provided further, that any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution; provided further, that such distributions shall not be made in advance of the date on which any payment is actually to be made; provided further, that the state retirement board is authorized to expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws; provided further, that except where authorized herein, no funds shall be expended from this item, other than deposits to the Commonwealth's Pension Liability Fund; and

Chap. 194

	provided further, that to the extent that the amount appropriated herein exceeds the amount necessary to adequately fund this item, said excess amount shall be credited to the pension reserve investment trust fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth	\$965,340,000
	Local Aid Fund	59.0%
	General Fund	33.9%
	Highway Fund	7.0%
	Inland Fisheries and Game Fund	0.1%
0612-1506	For a reserve to meet the commonwealth's obligation for the fiscal year ending June 30, 1999, pursuant to section 22B of chapter 32 of the General Laws, to reduce the unfunded pension liabilities of public retirement systems, other than the state employee and state teachers systems; provided, that the distribution from this reserve shall be based upon a determination by the secretary of administration and finance of actual payroll costs for the fiscal year ending June 30, 1998	\$5,993,706
0612-2000	For retirement benefits authorized pursuant to chapters 712 and 721 of the acts of 1981, chapter 154 of the acts of 1983, chapter 67 of the acts of 1988 and chapter 621 of the acts of 1989, for the compensation of veterans who may be retired by the state board of retirement, including individuals formerly in the service of the division of employment security whose compensation for such service was paid in full from a grant from the federal government and for the cost of medical examinations in connection therewith, for pensions of retired judges or their widows or widowers, for retirement allowances of certain employees formerly in the service of the administrative division of the metropolitan district commission, for retirement allowances of certain veterans and police officers formerly in the service of the metropolitan district commission, for retirement allowances of certain veterans formerly in the service of the metropolitan sewerage district, for retirement allowances of certain veterans formerly in the service of the metropolitan water system and for annuities for widows or widowers of certain former members of the uniformed branch of the state police	\$19,433,757

Chap. 194

General Fund	82.2%
Highway Fund	17.8%

Commission on Firefighters' Relief.

0620-0000	For financial assistance to injured firefighters	\$9,808
	Local Aid Fund	100.0%

Emergency Finance Board.

0630-0000	For the operation of the emergency finance board; provided, that notwithstanding the provisions of any general or special law to the contrary, no employee of the department of revenue shall receive any reimbursement for services from this item	\$70,351
	Local Aid Fund	100.0%

Lottery Commission.

0640-0000	For the operation of the state lottery commission and arts lottery; provided, that no funds shall be expended from this item for any costs associated with the promotion or advertising of lottery games; provided further, that positions funded by this item shall not be subject to chapters 30 and 31 of the General Laws; provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund; and provided further, that no funds appropriated herein shall be scheduled in, transferred to, or expended from, the EE subsidiary, so-called, of this item . . .	\$34,929,191
0640-0005	For the costs associated with the continued implementation of the game of keno, so-called; provided, that any sums expended on promotional activities shall be limited to point of sale promotions and agent newsletters; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund	\$1,360,141
0640-0010	For the promotional activities associated with the state lottery program; provided, that such promotional expenses shall be limited to point-of-sale promotions and agent newsletters; and provided further, that 25 per cent of the amount appropriated herein shall be transferred quarterly from the State Lottery Fund to the General Fund	\$400,000

Chap. 194

0640-0045	For the telecommunication lease to purchase costs associated with the replacement of the Massachusetts state lottery commission's computer system	\$8,085,917
0640-0096	For the purpose of the commonwealth's fiscal year 1999 contributions to the health and welfare fund established pursuant to the collective bargaining agreement between the lottery commission and the service employees international union, Local 254, AFL-CIO; provided, that said contributions shall be paid to said trust fund on such basis as said collective bargaining agreement provides	\$280,410
0640-0103	For the operation of the state lottery commission and arts lottery; provided, that all funds appropriated herein shall be scheduled in and expended from the EE subsidiary, so-called; provided further, that no funds shall be expended from any other subsidiary except said EE subsidiary, so-called; provided further, that said commission is hereby directed to use the most cost-effective paper products for producing instant tickets; provided further, that said commission is also directed to use recycled paper products for producing instant tickets and bet slips whenever possible; provided further, that no funds shall be expended from this item for any costs associated with advertising lottery games; and provided further, that 25 per cent of this appropriation shall be transferred quarterly from the State Lottery Fund to the General Fund	\$27,032,847

Massachusetts Cultural Council.

0640-0300	For the services and operations of the council; provided, that notwithstanding the provisions of any general or special law to the contrary, the council may expend the amounts herein appropriated for the purposes of the council as provided in sections 52 to 58, inclusive, of chapter 10 of the General Laws in such amounts and at such times as the council may determine pursuant to section 54 of said chapter 10; provided further, that 25 per cent of this appropriation shall be transferred quarterly from the Arts Lottery Fund to the General Fund; provided further, that any funds expended from this item for the benefit of schoolchildren shall be expended for the benefit of all Massachusetts schoolchildren and on the same terms and	
-----------	---	--

conditions; provided further, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren; provided further, that \$1,000,000 of the funds appropriated herein shall be used to assist cultural organizations in augmenting or initiating endowments to promote the financial stability of such organizations, said assistance shall be in the form of challenge grants to said organizations; provided further, that in order to receive such grants a cultural organization must raise an amount at least equal to the amount of the grant for said organization's endowment; provided further, that funds provided by such grants shall, in perpetuity, be used solely to provide free or reduced rate public programs or services to citizens of the commonwealth; provided further, that no grant made under this program shall exceed \$100,000; provided further, that \$50,000 shall be expended for the Riverside Theater Works, so-called; and provided further, that persons employed under this item shall be considered employees within the meaning of section 1 of chapter 150E of the General Laws and shall be placed in the appropriate bargaining units \$14,000,000

0640-0350 For the purposes of cultural resources pursuant to section 36 of chapter 69 of the General Laws; provided, that the council shall not expend funds from this item for any recipient that, in any program or activity for Massachusetts schoolchildren, does not apply the same terms and conditions to all such schoolchildren \$3,329,850

Debt Service.

0699-0015 For the payment of interest, discount and principal on certain bonded debt and the sale of bonds of the commonwealth, previously charged to the Local Aid Fund, the State Recreation Areas Fund, the Metropolitan Parks District Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, the Watershed Management Fund, the Highway Fund, and the Inter-City Bus Fund; provided, that payments of certain serial bonds maturing previously charged to the Local Aid Fund, the

State Recreation Areas Fund, the Metropolitan Water District Fund, the Metropolitan Sewerage District Fund, and the Highway Fund shall be paid from this item; provided further, that payments on bonds issued pursuant to section 2 O of chapter 29 of the General Laws shall be paid from this item and shall be charged to the Infrastructure subfund of the Highway fund; provided further, that payments of interest, discount and principal on certain bonded debt of the commonwealth associated with the Watershed Management Fund for the acquisition of development rights and other interests in land, including fee simple acquisitions of watershed lands of the Quabbin and Wachusett reservoirs and the Ware river watershed above the Ware river intake pipe shall be paid from this item; and provided further, that notwithstanding the provisions of any general or special law to the contrary or the provisions of this item, the comptroller is hereby authorized to charge the payments authorized herein to the appropriate budgetary or other fund subject to a plan which the comptroller shall file ten days in advance with the house and senate committees on ways and means \$1,187,000,000

General Fund	56.34%
Highway Fund	31.93%
Local Aid Fund	11.39%
Watershed Management Fund	0.34%

0699-9100 For the purpose of depositing with the trustee under the trust agreement authorized in section 10B of chapter 11 of the acts of 1997, inserted by section 1 of chapter 121 of the acts of 1998, an amount to be used to pay the interest due on notes of the commonwealth issued pursuant to section 9 of said chapter 11, as so inserted, and secured by the Federal Highway Grant Anticipation Note Trust Fund; provided, that in addition to the aforementioned purpose, funds appropriated herein may also be expended for the payment of interest and issuance costs on bonds and bond and revenue anticipation notes and other notes pursuant to sections 47 and 49B of chapter 29 of the General Laws; provided further, that the treasurer shall certify to the comptroller a schedule of the distribution of such costs among the various funds of the commonwealth; provided

Chap. 194

	further, that the comptroller shall charge such costs to such funds in accordance with such schedule; and provided further, that any deficit in this item at the close of the fiscal year ending June 30, 1999 shall be charged to the various funds or to the General Fund or Highway Fund debt service reserves	\$71,000,000
0699-9200	For certain debt service contract assistance to the government land bank in accordance with the provisions of section 8B of chapter 212 of the acts of 1975	\$11,112,452

STATE AUDITOR.

Office of the State Auditor.

0710-0000	For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with the provisions of sections 52 to 55, inclusive, of chapter 7 of the General Laws, and including oversight of the compliance efforts of the information technology division within the executive office of administration and finance and other appropriate executive agencies to implement the year 2000 compliance program; provided, that a report shall be submitted to the house and senate committees on ways and means not later than September 30, 1998 delineating the privatization contracts reviewed and monitored during fiscal year 1998; and provided further, that such report shall further detail the number of full-time equivalent positions assigned by said office for the review of each of the aforementioned privatization contracts	\$13,108,672
0710-0100	For the operation of the division of local mandates	\$741,328
	Local Aid Fund	100.0%

ATTORNEY GENERAL.

Attorney General.

0810-0000	For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, and the victim and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with the provisions of chapters 258B and 258C of the General Laws; provided further, that the attorney general shall submit to the general court and the	
-----------	---	--

Chap. 194

secretary of administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0611-5000 indicating both the number and costs for each category of claim; provided further, that funds maybe expended for an amount up to \$250,000 for a grants program for the safe neighborhood initiative-jobs for youth program; provided further, that an additional \$250,000 shall be expended from the funds appropriated herein for a safe neighborhood initiative pilot program in the Bowdoin/Geneva area, so-called, of Dorchester; and provided further, that the public proceedings unit shall review the water rate increases \$17,542,528

General Fund	92.74%
Local Aid Fund	3.91%
Anti-Trust Law Enforcement Fund	1.98%
Victim and Witness Assistance Fund	0.88%
Safe Drinking Water Act Fund	0.49%

0810-0014 For the operation of the public utilities proceedings unit pursuant to section 11E of chapter 12 of the General Laws. . . . \$1,591,371

0810-0017 For the expenses related to judicial proceedings relevant to the fuel charge pursuant to section 94G of chapter 164 of the General Laws and such other proceedings as may be reasonably related to said section; provided, that said assessment shall be credited to the General Fund \$75,000

0810-0021 For the operation of the medicaid fraud control unit; provided, that the federal reimbursement for any expenditure from this item shall not be less than 75 per cent of such expenditure \$1,464,801

0810-0045 For the labor law enforcement program pursuant to subsection (b) of section 1 of chapter 23 of the General Laws; provided, that notwithstanding the provisions of any general or special law to the contrary, any non-management position funded by this item shall be deemed a job title in a collective bargaining unit as prescribed by the labor relations commission and shall be subject to the provisions of chapter 150E of the General Laws \$2,990,823

0810-0201 For the costs incurred in administrative or judicial proceedings on insurance as authorized by section 11F of chapter 12 of the General Laws; provided, that funds made

Chap. 194

	available herein may be used to supplement the automobile insurance fraud unit and the workers' compensation fraud unit of the office of the attorney general	\$1,382,454
0810-0338	For the investigation and prosecution of automobile insurance fraud; provided, that notwithstanding the provisions of section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$250,000	\$270,871
0810-0399	For the investigation and prosecution of workers' compensation fraud; provided, that notwithstanding the provisions of section 3 of chapter 399 of the acts of 1991, the amount assessed pursuant to said section 3 for the cost of this program shall be \$250,000; provided further, that the attorney general is hereby authorized and directed to investigate and prosecute, where appropriate, employers who fail to provide workers' compensation insurance in accordance with the laws of the commonwealth; and provided further, that said unit shall investigate and report on all companies not in compliance with chapter 152 of the General Laws	\$463,159

Commission on Uniform State Laws.

0830-0100	For the commission on uniform state laws	\$34,400
-----------	--	----------

Victim Witness Assistance Board.

0840-0100	For the operation of the Massachusetts office for victim assistance	\$317,839
	Victim and Witness Assistance Fund	100.0%
0840-0101	For the salaries and expenses of continuing the pilot domestic violence advocates program in the Hampshire probate and family court and the Northampton and Ware district courts; provided, that \$37,000 from said program shall be made available for the salary and expenses of a coordinator or supervisor of said program within the Massachusetts office of victim assistance; provided further, that said office shall submit to the house and senate committees on ways and means on or before February 3, 1999 a report detailing the effectiveness of contracting for said program including, but not limited to, the number and types of incidents to which such advocates responded, the types of service and service	

Chap. 194

referrals provided by such domestic violence advocates,
the cost of providing such contracted services and the
extent of coordination with other service providers and
state agencies\$115,162

STATE ETHICS COMMISSION.

0900-0100 For the operation of the state ethics commission \$1,395,249
General Fund 50.0%
Local Aid Fund 50.0%

OFFICE OF THE INSPECTOR GENERAL.

0910-0200 For the operation of the office of the inspector general \$1,973,448
0910-0210 The office of the inspector general is hereby authorized to
expend revenues collected up to a maximum of \$300,000
from the fees charged to participants in the Massachusetts
public purchasing official certification program for the
operation of said program; provided, that for the purpose
of accommodating discrepancies between the receipts of
retained revenues and related expenditures, the office of
the inspector general may incur expenses and the comp-
troller may certify for payments amounts not to exceed the
lower of this authorization or the most recent revenue
estimate as reported in the state accounting system \$300,000

OFFICE OF CAMPAIGN AND POLITICAL FINANCE.

0920-0300 For the operation of the office of campaign and political
finance\$758,263
General Fund 50.0%
Local Aid Fund 50.0%

COMMISSION ON THE STATUS OF WOMEN.

0950-0000 For the commission on the status of women \$195,000

OFFICE OF THE STATE COMPTROLLER.

1000-0001 For the office of the state comptroller, for the purpose and
cost of compliance with the Single Audit Act of 1984,
Public Law 89-502, and for the federally required
comprehensive, statewide single audit of state operations
for the fiscal year ending June 30, 1999, in accordance
with generally accepted accounting principles; provided,
that the office of the comptroller shall charge other

items of appropriation for the cost of said audit from allocated federal funds transferred from federal reimbursement and grant receipts; provided further, that the office of the comptroller shall charge not more than a total of \$525,000 to other items of appropriation for the cost of said audit; provided further, that notwithstanding any general or special law to the contrary, allocated federal funds transferred from federal reimbursement and grant receipts shall be credited to and expended from this item without further appropriation, in addition to state funds appropriated to this item, for the cost of compliance with the mandate of the federal law and the office of management and budget regulations; provided further, that the amount of any such federal funds and grant receipts so credited and expended from this item shall be reported to the house and senate committees on ways and means; provided further, that the comptroller shall maintain a special federal and nontax revenue unit which shall operate under policies and procedures developed in conjunction with the secretary of administration and finance; provided further, that the comptroller shall provide quarterly reports to the house and senate committees on ways and means which shall include for each state agency for which the commonwealth is billing, the eligible state services, the full year estimate of revenues and revenues collected; and provided further, that not later than August 5, 1998, the comptroller shall amend the expenditure classification manual, so-called, to create an object code which will facilitate the ability of state agencies to make grants to public and non public entities from accounts with a designation of account type 01 and account type 02, so-called, on the Massachusetts management accounting and reporting system, so-called \$7,253,739

General Fund 93.81%

Revenue Maximization Fund 6.19%

1000-0004 The office of the comptroller is hereby authorized and directed to expend an amount not to exceed \$20,000 from fees collected from vendors who participate in training on statewide financial systems including, but not limited to, the Massachusetts management accounting and reporting

Chap. 194

system; provided, that said office is hereby further authorized and directed to provide such training, to offer sessions to vendors who do business with the commonwealth and to establish and charge a reasonable fee for such training \$20,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Secretary.

- 1100-1100 For the office of the secretary \$1,309,670
- 1100-1101 For the implementation of the Massachusetts performance enhancement program pursuant to section 359 \$200,000

Office of Dispute Resolution.

- 1100-1103 For the operation of the office of dispute resolution \$421,902
- 1100-1104 The office of dispute resolution is hereby authorized to expend an amount not to exceed \$150,000 in revenues collected from fees charged to cities, towns or public instrumentalities and other political subdivisions of the commonwealth or to corporations and individuals for the costs of mediation and related services; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the office of dispute resolution may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the cost of personnel \$150,000

Central Business Office.

- 1100-1140 For the operation of the central business office; provided, that said office shall quantify office expenditures which can and shall be reduced through shared contracts, bulk purchasing and other centralized procurement savings programs for the agencies served by said office; and provided further, that documentation of said expenditures and any resulting savings shall be submitted to the house and senate committees on ways and means no later than December 1, 1998 \$1,962,717

Massachusetts Corporation For Educational Telecommunications.

- 1100-1400 For a payment to the Massachusetts corporation for educational telecommunications to be expended in accordance with the financial and programmatic plan filed with the General Court on September 1, 1997; provided, that said corporation shall update said plan by detailing for fiscal years 1999, 2000 and 2001, all activities necessary to meet the external revenue goals identified by said plan that shall enable said corporation to achieve self-sufficiency by fiscal year 2001; provided further, that said report shall also include three-year projections of subscribers to the Mass Ed Online LearnNet, so-called; and provided further, that said report shall be filed with the General Court no later than September 1, 1998 \$4,300,000

State House Physician.

- 1100-2600 For the emergency services of a physician, for medical supplies in the state house and for expenses, including the purchase of equipment in connection therewith; provided, that section 21 of chapter 30 of the General Laws shall not apply to the payments made under this item, prior appropriation continued \$26,170

Fiscal Affairs Division.

- 1101-2100 For the administration of the fiscal affairs division; provided, that charges for the cost of computer resources and services provided by the information technology division for the design, development and production of reports and information required to be included in budgets submitted by the governor to the legislature shall not be charged to this item \$2,121,164
- 1101-2101 For costs associated with the implementation and operation of a capital budgeting management program, including the costs of six full-time state employees \$250,000

Division of Capital Asset Management and Maintenance.

- 1102-3205 The division of capital asset management and maintenance is hereby authorized to expend for the maintenance and operation of the Massachusetts information technology center an amount not to exceed \$6,500,000 in revenues

Chap. 194

	collected from rentals, commissions, fees, parking fees and any and all other sources pertaining to the operations of said center; provided, that the building manager selected by the division shall make such expenditures on behalf of the division pursuant to the provisions of section 2AA of chapter 29 of the General Laws; and provided further, that notwithstanding the provisions of any general or special law to the contrary, and for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditure, the division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$6,500,000
	State Building Management Fund	100.0%
1102-3206	For the costs associated with the maintenance and security of surplus state properties, so-called	\$1,180,000
1102-3210	For the operation of the division of capital asset management and maintenance including directing, controlling, supervising, planning and overseeing the scheduled maintenance and repair needs of capital assets owned by the commonwealth; provided, that said division shall devote the necessary administrative resources, including the costs of personnel, from this item and item 1599-2503 of this act for the program of scheduled and emergency maintenance and repair of capital assets owned by the commonwealth pursuant to section 290; provided further, that said division shall file quarterly reports with the house and senate committees on ways and means detailing all amounts expended on bond-funded capital projects under the jurisdiction of said division, and for all administrative expenses of said division charged to said bonds; provided further, that all such amounts so reported shall be detailed by object code; and provided further, that said reports shall be filed not later than 30 days after the end of each quarter. . . .	\$5,271,072
1102-3214	For the state transportation building; provided, that the division of capital asset management and maintenance is hereby authorized to expend revenues collected up to a maximum of \$6,700,000 from rentals, commissions, fees,	

- parking fees and from any and all other sources pertaining to the operation of the state transportation building for the maintenance and operation of said building; provided further, that the building manager selected by said division shall make such expenditures on behalf of said division pursuant to the provisions of section 2AA of chapter 29 of the General Laws; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital asset management and maintenance may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$6,700,000
- State Building Management Fund 100.0%
- 1102-3221 The division of capital asset management and maintenance is hereby authorized to expend for consultant personnel, and associated costs, up to a maximum of \$200,000 from revenues received for project management services provided to, but not limited to, the Massachusetts information technology center and the several community colleges, pursuant to the provisions of section 42J of chapter 7 of the General Laws, including the costs of personnel; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital asset management and maintenance may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; and provided further, that said division shall file a quarterly report with the house and senate committees on ways and means detailing all expenditures for each project by MMARS subsidiary and object codes \$200,000
- 1102-3231 For the Springfield state office building; provided, that the division of capital asset management and maintenance is hereby authorized to expend revenues collected up to a maximum of \$750,000 from rents charged to agencies occupying said building for the maintenance and operation of said building, pursuant to the provisions of section 2AA

Chap. 194

of chapter 29 of the General Laws; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the division of capital asset management and maintenance may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system\$750,000

State Building Management Fund 100.0%

1102-9999 For the costs associated with the removal of asbestos; provided, that an amount shall be expended for asbestos removal at Boston state hospital, Greenfield Community College and the Fore River shipyard based on the priority needs and estimated costs of asbestos removal at said sites consistent with the amount appropriated herein; and provided further, that any additional revenues deposited to the asbestos cost recovery fund may be expended, for the purpose of this item, without further appropriation, prior appropriation continued \$1,000,000
Asbestos Cost Recovery Fund 100.0%

Bureau Of State Office Buildings.

1102-3301 For the operation of the bureau of state office buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings; provided, that said bureau shall retain full jurisdiction over all contracts, purchases and payments for any and all materials and services required in the operation of said bureau; provided further, that not less than \$200,000 shall be made available for cleaning and maintenance services of the Lindemann Mental Health Center; provided further, that not less than \$50,000 shall be made available for the restoration and preservation of the historic flags displayed in the state house hall of flags; provided further, that not less than \$90,000 shall be made available for the Massachusetts art commission; and provided further, that notwithstanding the provisions of section 19 of chapter 6 of the General Laws, the chairman of said commission shall serve as executive director of said project and shall be compensated therefor from said \$90,000 \$9,011,098

Chap. 194

1102-3302 For the purposes of utility costs and associated contracts for the properties managed by the bureau of state office buildings \$7,786,258

Office on Disability.

1107-2400 For the office on disability; provided, that not less than \$50,000 of the amount appropriated herein shall be expended for arts programs for people with disabilities, including, but not limited to, festivals, training, and education through the arts \$643,158

Disabled Persons Protection Commission.

1107-2501 For the disabled persons protection commission; provided that the commission shall facilitate compliance by the department of mental health and the department of mental retardation with uniform investigative standards, so-called; provided further, that the commission shall keep an account of and report to the house and senate committees on ways and means not later than the last day of each quarter on the number of claims of abuse by caretakers made by employees or contracted service employees of the departments of mental retardation and mental health and the Massachusetts rehabilitation commission; and provided further, that said report shall include the following: (i) number of claims that are found to be substantiated; (ii) number of claims that are unsubstantiated; and (iii) number of claims that are found to be falsely reported as a result of intentional and malicious action \$1,505,053

Civil Service Commission.

1108-1011 For the civil service commission \$508,000
Local Aid Fund 65.0%
General Fund 35.0%

1108-1012 For a reserve to reduce or eliminate the backlog of cases pending before the civil service commission; provided, that no state employee shall be compensated from this item; and provided further, that all costs charged to this item shall be deemed to be one-time costs and shall cease to be obligations of said civil service commission or the commonwealth once said backlog is eliminated, prior appropriation continued.

Group Insurance Commission.

- 1108-5100 For the administration of the group insurance commission; provided, that said commission shall generate the maximum amounts allowable under the federal Consolidated Omnibus Budget Reconciliation Act, as amended, and from reimbursements allowed by sections 8, 10B, 10C and 12 of chapter 32A of the General Laws \$2,063,195
- 1108-5200 For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 1999; provided, that not more than \$300,000 shall be obligated for the evaluation and audit of said premium and plan costs; provided further, that not more than \$300,000 shall be obligated for the evaluation and negotiation of premium rates which may include rates for health benefit plans, prescription drug plans and long-term disability plans; provided further, that not more than \$150,000 shall be obligated for claims utilization analysis; provided further, that the secretary of administration and finance shall charge the department of employment and training and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of insurance premiums and plan costs as he determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds, and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided further, that prior year costs incurred by the state indemnity health insurance plan and the preferred provider organization shall be funded from this item; provided further, that the group insurance commission shall report quarterly to the house and senate committees on ways and means the amounts expended from this item for said prior year costs; provided further, that the group insurance commission shall obtain reimbursement for premium and administrative expenses from other agencies and authorities not funded by state appropriation; provided further, that the secretary of administration and finance is authorized and directed to charge all agencies for the commonwealth's share of the

health insurance costs incurred on behalf of any employees of those agencies who are on leave of absence for a period of more than one year; provided further, that the amounts received in payment for said charges shall be credited to the General Fund; provided further, that, notwithstanding the provisions of section 26 of chapter 29 of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts prior to July 1 of each year for policies of group insurance as authorized by chapter 32A of the General Laws; provided further, that notwithstanding the provisions of chapter 150E of the General Laws and as provided in section 8 of said chapter 32A and for the purposes of section 14 of said chapter 32A, the commonwealth's share of the group insurance premium for state employees who have retired prior to July 1, 1994 shall be 90 per cent and the commonwealth's share of the group insurance premium for state employees who have retired on or after July 1, 1994 shall be 85 per cent; provided further, that the commission shall provide the number of retirees for whom the commonwealth pays said 85 per cent to the house and senate committees on ways and means by February 1 of each year; provided further, that the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premiums and rates; provided further, that notwithstanding the provisions of chapter 150E of the General Laws, employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall continue to pay the same per centage, if any, of the health insurance premium that they paid on June 1, 1994; provided further, that active employees of the Massachusetts Bay Transportation Authority and of regional transit authorities shall pay 15 per cent of such premiums and rates; and provided further, that the commission shall notify the house and senate committees on ways and means by March 15 of each year of the cost of the commonwealth's projected share of group insurance premiums for the next fiscal year \$545,831,850

1108-5350	For elderly governmental retired employee premium payments. . .	\$1,683,677
1108-5400	For the costs of the retired municipal teachers' premiums and the audit of said premiums	\$25,109,532

Chap. 194

Local Aid Fund 100.0%

1108-5500 For the costs, notwithstanding the provisions of chapter 32A of the General Laws to the contrary, of dental and vision benefits for those active employees of the commonwealth, not including employees of authorities and any other political subdivision, who are not otherwise provided such benefits pursuant to a separate appropriation or the provisions of a contract or collective bargaining agreement; provided, that said employees shall pay at least 15 per cent of the monthly premium established by the commission for such benefits \$4,020,605

Division of Administrative Law Appeals.

1110-1000 For the operation of the division of administrative law appeals established by section 4H of chapter 7 of the General Laws. \$604,346

George Fingold Library.

1120-4005 For the administration of the library; provided, that said library shall maintain regular hours of operation from 9:00 a.m. to 5:00 p.m.; provided further, that said library is hereby authorized and directed to develop an internship program with any Massachusetts public or private college or university that offers, as of the date of passage of this act, advanced studies in library and information science; provided further, that said program shall commence on July 1, 1999; and provided further, that said library shall continue the implementation program necessary in order to secure access to the wide area network \$1,297,853

Massachusetts Commission Against Discrimination.

1150-5100 For the office of the commission, including the processing and resolution of cases pending before the commission that were filed on or before July 1, 1993 and cases pending before said commission in which the Massachusetts Bay Transportation Authority is named as a respondent; provided further, that on or before October 1, 1998, and March 1, 1999 said commission shall submit to the senate and house committees on ways and means an update report on the total number of such currently pending cases and the total number of such cases in the investigation, conciliation, post-probable cause and pre-public hearing, and post-hearing stages; provided further, that said

commission shall identify in such reports the number of cases in which the commission has determined there is probable cause to believe that a violation of the provisions of chapter 151B of the General Laws has been committed in a case in which said authority is named as a respondent; provided further, that said commission shall report to the house and senate committees on ways and means on or before September 1, 1998 the number of cases pending before the commission in which a state agency or state authority is named as a respondent and the number of such cases where probable cause to believe that a violation of the provisions of said chapter 151B has been committed; provided further, that an amount not to exceed \$15,000 may be expended to fund Edward Brooke Scholarships whereby the recipients of said scholarships assist said commission in resolving said cases filed on or before July 1, 1993; provided further, that an additional \$100,000 shall be expended to reduce case backlog; provided further, that the commission is hereby authorized to expend \$100,000 for the sole purpose of supporting the civil rights enforcement efforts of cities and towns through their local human rights commissions; provided, that such efforts shall include, but not be limited to, the following cities and towns: Amherst, Barnstable, Boston, Cambridge, Chelsea, Lawrence, Malden, Melrose, New Bedford, Northampton, Pittsfield, Somerville, Springfield, and Worcester; provided further, that funds made available herein shall be in addition to funds available in item 1150-5104; provided further, that all positions except clerical, shall be exempt from the provisions of chapter 31 of the General Laws; and provided further, that said commission shall pursue the highest allowable rate of federal reimbursement \$1,657,522

1150-5104 The Massachusetts commission against discrimination is hereby authorized to expend revenues collected through federal reimbursements received for the purposes of the United States Department of Housing and Urban Development fair housing type 1 program and the equal opportunity resolution contract program during fiscal year 1999 and federal reimbursements received for these and other programs in prior years; provided, that for the

purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, said commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that notwithstanding the provisions of section 1 or any other general or special law to the contrary, federal reimbursements received in excess of \$1,563,344 shall be credited to the General Fund; provided further, that notwithstanding the provisions of any general or special law to the contrary, funds may be expended from this item for the purposes of case investigations, conciliation and resolution efforts of local agencies as provided by contract through the commission; provided further, that such efforts shall include, but not be limited to, the following cities and towns: Worcester, New Bedford, Somerville, Chelsea, Cambridge and Barnstable; provided further, that notwithstanding the provisions of any general or special law to the contrary, the commission shall deposit into the General Fund any federal reimbursements received for these purposes in fiscal year 1999; provided further, that the commission shall report to the house and senate committees on ways and means, not later than the last day of each quarter, the following: federal reimbursements received in each such quarter, anticipated reimbursements to be received in the remaining quarters of the fiscal year and reimbursements projected to be collected in the subsequent fiscal year for such purposes; provided further, that such report shall detail actual and anticipated reimbursements by date of receipt, case type, reimbursement per case and cases resolved; and provided further, that the costs of personnel may be charged to this item \$1,563,344

1150-5116 The Massachusetts commission against discrimination is hereby authorized to expend an amount not to exceed \$27,500 from revenues collected from fees charged for the training and certification of diversity trainers for the operation of the discrimination prevention certification program \$27,500

Department of Revenue.

1201-0100 For the operation of the department of revenue, including tax collection administration, audit of certain foreign corporations, and the division of local services, provided, that the department may allocate an amount not to exceed \$250,000 to the office of the attorney general for the purpose of the tax prosecution unit; provided further, that the department may charge the expenses for computer services, including the cost of personnel and other support costs provided to the child support enforcement unit, from this item to item 1201-0160, consistent with the costs attributable to said unit; provided further, that the department shall maintain regional offices in the cities of Springfield, Pittsfield, and Worcester; provided further, that the department shall provide to the general court access to the municipal data bank; and provided further, that the department shall submit a report, no later than November 30, 1998, to the house and senate committees on ways and means detailing the types, uses and costs of technology acquisitions leased or purchased during the previous fiscal year and those planned during the current fiscal year, the capabilities, expected useful life and estimated annual maintenance costs of said acquisitions, a detailed description of how said acquisitions increase efficiency and reduce costs, and a cost-benefit analysis, of the costs and savings associated with the implementation of said acquisitions \$120,019,078

General Fund	60.0%
Local Aid Fund	35.0%
Highway Fund	5.0%

1201-0160 For the child support enforcement unit; provided, that the department may allocate funds appropriated herein to the department of state police, the district courts, the probate and family courts, the district attorneys and other state agencies for the performance of certain child support enforcement activities and that such agencies are hereby authorized to expend said funds for the purposes of this item; provided further, that all such allocations shall be reported quarterly to the house and senate committees on

	ways and means upon the allocation of said funds; provided further, that federal receipts associated with child support enforcement grants shall be deposited into a revolving account to be drawn down at the highest possible rate of reimbursement and to be expended for the grant authority, so-called; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing the balance, year-to-date and projected receipts and year-to-date and projected expenditures, by subsidiary, of the child support trust fund established pursuant to section 9 of chapter 119A of the General Laws; and provided further, that the department shall file a performance report with the house and senate committees on ways and means on or before January 15, 1998, detailing current staffing levels by function and performance indicators, including, but not limited to, TAFDC and non-TAFDC caseloads, collection levels, court cases, paternities established, court orders established, average employee workload, federal reimbursements, projections of said indicators for the remainder of the fiscal year and any deviations of current performance from previous projections	\$44,127,335
1231-1000	For the Commonwealth Sewer Rate Relief Fund established by section 2Z of chapter 29 of the General Laws	\$53,914,000
	Local Aid Fund	93.34%
	Commonwealth Cost Relief Fund	6.66%
1231-1020	For a program of loans, loan purchases, or loan guarantees or interest subsidies to assist homeowners, homeowner associations or condominium associations in complying with revised state environmental code for subsurface disposal of sanitary waste, Title V, so called; provided, that said program shall be in addition to the loan program established pursuant to item 2200-9959 in section 2 of chapter 85 of the acts of 1994; provided further, that the department may contract with third parties including, but not limited to, commonwealth-based financial institutions to manage said program; provided further, that the department and said third parties shall take all steps necessary to minimize said program's administrative costs; provided further, that said loans, loan purchases or loan	

Chap. 194

guarantees shall be available on the basis of a sliding scale that relates a homeowner's income and assets to the cost of Title V compliance; provided further, that interest subsidies shall be means-tested and may be for zero-interest loans pursuant to income standards developed by the department; and provided further, that the department of revenue shall consult with the department of environmental protection in developing rules, regulations and guidelines for said programs, prior appropriation continued.

1232-0000	For the underground storage tank program and the administrative expenses associated with the implementation of chapter 21J of the General Laws; provided, that notwithstanding the provisions of section 4 of said chapter 21J or any other general or special law to the contrary, appropriations made herein shall be sufficient to cover said administrative expenses of the underground storage tank program	\$395,625
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0100	For underground storage tank reimbursements to parties that have cleaned up spills of petroleum products pursuant to chapter 21J of the General Laws	\$19,200,000
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0200	For the underground storage tank administrative review board pursuant to chapter 21J of the General Laws	\$1,496,399
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1232-0300	For underground storage tank municipal grants to remove and replace said tanks pursuant to section 2 of chapter 21J of the General Laws and section 37A of chapter 148 of the General Laws	\$2,000,000
	Underground Storage Tank	
	Petroleum Product Cleanup Fund	100.0%
1233-2000	For reimbursing cities and towns for taxes abated pursuant to the Seventeenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second E and Thirty-seventh clauses of section 5 of chapter 59 of the General Laws	\$8,250,000

Chap. 194

	Local Aid Fund	100.0%
1233-2010	For reimbursing cities and towns for tax abatements granted to certain home owners over the age of 65 pursuant to clause fifty-second of section 5 of chapter 59 of the General Laws; provided, that an amount shall be expended from this item for a low income sewer and water assistance program pursuant to the provisions of section 24B of chapter 23B of the General Laws, prior appropriation continued.	
1233-2310	For reimbursing cities and towns for taxes abated pursuant to the Forty-first, Forty-first B and Forty-first C clauses of section 5 of chapter 59 of the General Laws; provided, that the commonwealth shall reimburse each city or town that accepts the provisions of said clause Forty-first B or Forty-first C for additional costs incurred in determining eligibility of applicants under said clauses in an amount not to exceed \$2 per exemption granted	\$13,000,000
	Local Aid Fund	100.0%

Appellate Tax Board.

1310-1000	For the operation of the appellate tax board; provided, that the board shall schedule hearings in Barnstable, Gardner, Lawrence, Milford, Northampton, Pittsfield, Springfield, and Worcester	\$1,454,279
-----------	---	-------------

Department of Veterans' Services.

0610-0093	For the purposes of allowing the department of veterans' services to make bonus payments to Persian Gulf war veterans; provided that all such payments shall be consistent with the purposes of the trust instrument for "A Hero's Welcome Trust Fund"	\$18,000
	A Hero's Welcome Trust Fund	100.0%
1410-0010	For the administration and support of the office of veterans' services; provided, that not less than \$10,000 shall be obligated for a contract with the Korean War Veterans Committee of Massachusetts for the purpose of maintaining the Massachusetts Korean War Memorial located in the Shipyard Park of the Charlestown Navy Yard; and provided further, that said office shall fund a housing specialist from this item	\$1,763,821

Chap. 194

1410-0012	For services to veterans, including the maintenance and operation of outreach centers; provided, that said centers shall provide counseling to incarcerated veterans and to Vietnam era veterans and their families who may have been exposed to agent orange; provided further, that \$203,500 shall be obligated for a contract with the Veterans Benefits Clearinghouse in the Roxbury section of the city of Boston; provided further, that \$82,500 shall be obligated for a contract with the Veterans Northeast Outreach Center in the city of Haverhill; provided further, that \$104,610 shall be obligated for a contract with the North Shore Veterans Counseling Center in the city of Beverly; provided further, that \$77,000 shall be obligated for a contract with the Veterans Association of Bristol County in the city of Fall River; provided further, that \$110,000 shall be obligated for a contract with NamVets of the Cape and Islands in the town of Hyannis; provided further, that \$60,500 shall be obligated for a contract with the Outreach Center, Inc., in the city of Pittsfield; provided further, that \$90,420 shall be obligated for a contract with the Montachusett Veterans Outreach Center in Gardner; provided further, that \$77,000 shall be obligated for a contract with the Metrowest/Metrosouth Outreach Center in the town of Framingham; provided further, that \$66,000 shall be obligated for a contract with the Puerto Rican Veterans Association of Massachusetts, Inc., in the city of Springfield; provided further, that funding increases appropriated to this item which are in excess of the amounts appropriated in fiscal year 1998 shall be expended to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$30,000 in annual compensation who are employed by vendors whose contracts are funded by this item	\$905,172
	Local Aid Fund	100.0%
1410-0015	For the women veterans' outreach program	\$25,000
	Local Aid Fund	100.0%
1410-0100	For the elder affairs revenue maximization project to identify individuals eligible for veterans' pensions who are currently receiving home care and home health services	\$126,183

Chap. 194

- 1410-0250 For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans; provided, that not less than \$267,750 shall be obligated for a contract with the Central Massachusetts Shelter for Homeless Veterans located in the city of Worcester; provided further, that not less than \$267,750 shall be obligated for a contract with the Southeastern Massachusetts Veterans Housing Program, Inc. located in the city of New Bedford; provided further, that not less than \$207,900 shall be obligated for a contract with the United Veterans of America shelter located in the town of Leeds; provided further, that \$31,500 shall be obligated for a contract with the Veterans Benefit Clearinghouse located in Dorchester; provided further, that not less than \$50,000 shall be obligated for a contract with Unity House located in the city of Gardner; provided further, that not less than \$31,500 shall be obligated for a contract with the Transition House located in the city of Springfield; provided further, that not less than \$49,875 shall be obligated for a contract with the Mansion located in the city of Haverhill; provided further, that not less than \$31,500 shall be obligated for a contract with the Homestead located in the town of Hyannis; provided further, that not less than \$120,000 shall be obligated for a contract with the Veterans Hospice Homestead in the city of Leominster; provided further, that not less than \$100,000 shall be obligated for a contract with Habitat P. L. U. S. in the city of Lynn; and provided further, that funding increases appropriated to this item which are in excess of the amounts appropriated from this item in fiscal year 1998 shall be expended to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$30,000 in annual compensation who are employed by vendors whose contracts are funded by this item \$1,157,775
- 1410-0251 For homelessness services, including the maintenance and operation of homeless shelters and transitional housing for veterans at the New England Shelter for Homeless Veterans located in the city of Boston; provided, that funding increases in this contract that are in excess of amounts appropriated in fiscal year 1998 shall be expended to adjust the wages, compensation or salary and associated

Chap. 194

	employee-related costs to personnel earning less than \$30,000 in annual compensation who are employed through said contract	\$2,250,000
1410-0300	For the payment of annuities to certain disabled veterans and the parents of certain deceased veterans; provided, that such payments shall be made pursuant to section 6B of chapter 115 of the General Laws; provided further, that the department shall take reasonable steps to terminate payments upon the death of a recipient; provided further, that the commissioner of veteran's services shall file with the house and senate committees on ways and means a report detailing the number of applications received for annuities offered under this program not later than September 1, 1998	\$4,424,000
1410-0400	For reimbursing cities and towns for money paid for veterans' benefits and for payments to certain veterans; provided, that said reimbursements shall be made pursuant to section 6 of chapter 115 of the General Laws; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amounts of veterans' benefits paid by cities and towns to residents of a soldiers' home shall be paid by the commonwealth to the several cities and towns; provided further, that pursuant to section 9 of chapter 115 of the General Laws, the department shall reimburse cities and towns for the cost of United States flags placed on the graves of veterans on memorial day; and provided further, that the commissioner shall establish a training program for veterans' agents pursuant to section 355	\$8,413,276
	Local Aid Fund	100.0%
1410-0620	For a veterans' cemetery in the town of Agawam, prior appropriation continued.	
1410-0622	For a contribution by the commonwealth to the cost of construction of the MIA/POW Eternal Flame at the Massachusetts National Cemetery at Bourne	\$14,000
<i>Reserves.</i>		
1599-0001	For a reserve for the road tax evasion program, so-called	\$1,000,000
1599-0002	For contributions toward the maintenance of the old provincial state house	\$75,000

Chap. 194

1599-0013	For a reserve for the cities' and towns' unemployment health insurance contributions due under section 14G of chapter 151A of the General Laws; provided, that the deputy director of the division of employment and training shall provide to the secretary of administration and finance and the house and senate committees on ways and means quarterly estimates of the contributions due; and provided further, that upon approval of the secretary of administration and finance the treasurer shall transfer funds from this account to the Medical Security Trust Fund established by subsection (k) of section 14G of chapter 151A of the General Laws	\$3,000,000
	Local Aid Fund	100.0%
1599-0033	For a reserve to promote departmental revenue optimization projects authorized by and subject to the provisions of section 276	\$3,500,000
	Revenue Maximization Fund	100.0%
1599-0035	For certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with the provisions of section 39I of chapter 190 of the acts of 1982	\$24,653,087
1599-0036	For the expenses of the Massachusetts Convention Center Authority	\$12,632,616
	Massachusetts Tourism Fund	100.0%
1599-0060	For a reserve for the operation of the division of health care finance and policy and the administration of the uncompensated care pool; provided, that no funds shall be expended from this item for AA subsidiary costs, so-called; provided further, that the office of the comptroller shall establish quarterly benchmarks for the collection of not less than \$3,000,000 in fiscal year 1999 from federal financial participation generated by administrative expenditures of the division for the medicaid program pursuant to Title XIX of the Social Security Act; and provided further, that said division may make expenditures from this item, subject to the provisions of item 4100-0060 of section 2, upon certification by said comptroller that said benchmarks have been achieved for two quarters in said fiscal year	\$500,000

Chap. 194

- 1599-0093 For contract assistance to the water pollution abatement trust for debt service obligations of the trust, in accordance with the provisions of sections 6 and 6A of chapter 29C of the General Laws \$31,560,000
- Local Aid Fund 81.85%
- Commonwealth Cost Relief Fund 18.15%
- 1599-2122 For the office of the jury commissioner; provided, that notwithstanding any general or special law to the contrary, no funds shall be expended or transferred from this item until the secretary of administration and finance has certified that the office of the jury commissioner has submitted the report required by section 342 on or before February 28, 1999 \$725,552
- 1599-2123 For the division of information technology; provided, that said division is hereby authorized and directed to compile an amalgamated master juror list, so-called, using as its source lists from the statewide voter registration, the registry of motor vehicles list of drivers and identification card holders, the list of recipients receiving benefits of the department of transitional assistance, the list of tax filers from the department of revenue, and lists from other agencies and sources as deemed necessary for insuring a diverse jury pool; provided further, that funds expended from this item shall be for the purchase of technology needed to compile said list; provided further, that said list shall be turned over the commissioner of the office of jury commissioner on or before December 1, 1998; and provided, further, that said division shall work in collaboration with the jury commissioner to develop and implement a chargeback system to begin on February 1, 1999 whereby said division shall expand services to include the compilation of the entire juror list from which the jury commissioner shall be able to, upon its receipt, immediately summons jurors for jury duty \$200,000
- 1599-2501 For a reserve for the sex offender registry to fund expanded obligations of said registry which are directly related to legislative or judicial mandates; provided, that the secretary of administration and finance may transfer funds appropriated herein to item 8000-0125; provided further, that not less than 60 days prior to any such transfer, said

secretary shall file a spending plan with the house and senate committees on ways and means detailing the nature and reasons for the expenditures of the funds so transferred; provided further, that such expenditures shall be scheduled by subsidiary; and provided further, that such spending plan shall project the total cost of said registry for fiscal year 1999 and fiscal year 2000 \$4,000,000

Local Aid Fund 100.0%

1599-2503 For a reserve to meet the costs of scheduled, emergency and deferred maintenance and repairs to capital assets owned by the commonwealth; provided, that the secretary of administration and finance may transfer funds from this item to other items of appropriation and allocations thereof in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that operating funds previously budgeted for the purposes of capital asset maintenance and repairs in other items of appropriation shall continue to be used for such purposes and that the amounts appropriated herein shall not replace or supplant such budgeted amounts; provided further, that not later than September 1, 1998 the division of capital asset management and maintenance shall be responsible for promulgating rules and regulations regarding the distribution of funds to eligible agencies as defined in section 290 of this act; provided further, that not more than \$4,000,000 shall be expended from this item for emergency maintenance and repairs, so-called, as defined in said section 290; provided further, that no funds from this item shall be disbursed prior to the submission of the capital assets survey and management plan required pursuant to said section 290; provided further, that not more than \$150,000 shall be expended from this item on such survey and management plan; provided further, that said \$150,000 shall be in addition to any amounts expended from item 1102-3210 for the purposes of directing, controlling, supervising, planning and overseeing the scheduled maintenance and repair needs of capital assets owned by the commonwealth; provided further, that no funds appropriated herein shall be expended for routine

maintenance as defined in said section 290; provided further, that notwithstanding the provisions of section 40B of chapter 7 of the General Laws, the commissioner of capital asset management and maintenance may, upon the request of a state agency, delegate project control and supervision to such state agency over projects funded from this item whose estimated cost is less than \$500,000 if said commissioner determines that such agency has the ability to control and supervise such project; and provided further, that funds for such scheduled, emergency and deferred maintenance and repairs may be expended, notwithstanding the provisions of sections 39B to 40N, inclusive, of chapter 7 of the General Laws, whenever the total cost of such project is \$500,000 or less \$18,000,000

1599-2504 For a reserve for the expanded operation of the detoxification unit for females held on bail awaiting trial at the Massachusetts Correctional Institution, Framingham; provided, that the funds appropriated herein shall be in addition to funds appropriated for substance abuse treatment in item 8900-0001; provided further, that said funds shall be expended solely for the purposes of providing substance abuse treatment to females housed in a modular housing unit designated for substance abuse treatment for such females; provided further, that 60 days prior to the expenditure of any funds from this item, the secretaries of administration and finance and public safety shall certify in writing to the house and senate committees on ways and means the date on which such modular unit is scheduled to be fully operational and available for said purpose; and provided further, that said secretaries shall also certify in writing the anticipated fiscal year 1999 operational cost for said additional substance abuse treatment unit at the Massachusetts Correctional Institution, Framingham, in addition to funds provided for substance abuse treatment in said item 8900-0001 \$400,000

1599-3234 For the commonwealth's South Essex Sewerage District debt service assessment \$213,326

1599-3837 For a reserve for payment to the water pollution abatement trust to fund financial assistance to municipalities and other eligible borrowers to meet debt service obligations

Chap. 194

	incurred by such municipalities and other eligible borrowers after January 1, 1992, to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection or otherwise authorized by law and which have been completed, as determined by said department, on or prior to the promulgation date of said department's regulations related to the implementation of the federal Safe Drinking Water Act, so-called	\$8,000,000
	Local Aid Fund	100.0%
1599-3838	For a reserve for payment to the water pollution abatement trust to finance the costs of water treatment projects or portions thereof which have been approved by the department of environmental protection or otherwise authorized by law, after the promulgation date of said department's regulations related to the implementation of the federal Safe Drinking Water Act, so-called	\$1,700,000
	Local Aid Fund	100.0%
1599-3856	For rent and associated costs at the Massachusetts information technology center in the city of Chelsea	\$7,115,000
	State Building Management Fund	100.0%
1599-3917	For a reserve for the payment of principal and interest on bonds issued by Essex county, dated February 1, 1996, for repairs and renovations of courthouses subsequently acquired by the commonwealth	\$130,962
	Local Aid Fund	100.0%
1599-6897	For a reserve to adjust the wages, compensation or salary and associated employee-related costs to personnel earning less than \$30,000 in annual compensation who are employed by private human service providers that deliver human and social services under contract with departments within the executive office of health and human services and the executive office of elder affairs; provided, that the secretary of administration and finance is hereby authorized to allocate the funds appropriated herein to said departments in order to implement said initiative; provided further, that the operational services division shall condition the expenditure of such reserve upon assurances that such funds shall be used solely for the purposes of	

such adjustments to wages, compensation or salary; provided further, that said division shall submit to the house and senate committees on ways and means a report delineating the number of employees, by job title and average salary, receiving such adjustment in fiscal year 1999 and the average percentage adjustment funded by this reserve; provided further, that said report shall also include, for each contract scheduled to receive any allocation from this item in each such department, the total payroll expenditures in each contract for the categories of personnel scheduled to receive such adjustments; provided, that such adjustments shall be not less than 3 per cent for those workers earning less than \$20,000 in annual compensation and shall not be reduced by the expenses of such associated employee-related costs and withholding; provided further, that no funds from this item shall be allocated to special education programs under chapter 71B of the General Laws, contracts for child care services, or programs for which payment rates are negotiated and paid as class rates, so-called, as established by the division of health care finance and policy; provided further, that notwithstanding any provision of this item to the contrary, providers of family planning services reimbursed according to such class rate system, shall receive allocations from this item; provided further, that no funds shall be allocated from this item to contracts funded exclusively by federal grants as delineated in section 2D of this act; provided further, that the total fiscal year 1999 cost of the salary adjustments and any other associated employee costs authorized thereunder shall not exceed \$28,000,000; and provided further, that the annualized cost of such adjustments in fiscal year 2000 shall not exceed the amount appropriated herein \$28,000,000

1599-7001 For a reserve for costs associated with the early intervention program operated by the department of public health pursuant to the provisions of item 4513-1020 of section 2; provided, that said department shall submit the following information to the secretary of administration and finance and to the chairmen of the house and senate committees on ways and means: (a) a delineation of the actual caseload

for said early intervention program for each of the months during the period from July 1, 1998 to November 1, 1998, inclusive; (b) an estimate of the projected caseload for said early intervention program during the period from November 1, 1998 to June 30, 1999, inclusive; (c) an estimate of the projected costs to be incurred by said early intervention program during the fiscal year 1999 accounts payable period, so-called; (d) the actual cost per case for said early intervention program for each month during the period from July 1, 1998 to November 1, 1998, inclusive; (e) an estimate of the projected cost per case for said early intervention program for each month during the period from November 1, 1998 to June 30, 1999, inclusive; (f) monthly date-of-service and date-of-payment expenditure data by provider type for items 4513-1010 and 4513-1020 of this act; (g) a revised caseload projection methodology that distinguishes the beneficiaries of said program by diagnostic category and which reflects the retroactive nature of departmental expenditures for benefits provided under said program; (h) the rate of caseload growth for each such category; (i) the health insurance status of such beneficiaries, including MassHealth eligibility status or eligibility for third party health insurance; (j) a description of early intervention programs provided by other states and expenditures of such states on benefits not eligible for Title XIX of the Social Security Act; and (k) an analysis accompanied by recommendations, if any, correcting for the purported shift by third party payers from the provision of early intervention benefits under uncapped benefit plans to the capped benefit plan established pursuant to chapter 175 of the General Laws; provided further, that said department shall submit the information required by clauses (a) to (k), inclusive, not later than March 1, 1998; provided further, that the secretary of administration and finance may transfer funds from this item to said item 4513-1020 subject to a transfer plan which shall be filed in advance with the chairmen of the house and senate committees on ways and means; and provided further, that no funds shall be transferred or allocated from this item to any other item of appropriation until said department

Chap. 194

	submits the information required by said clauses (a) to (k), inclusive, to said secretary of administration and finance and to the chairmen of the house and senate committees on ways and means	\$6,215,775
	General Fund	75.18%
	Health Protection Fund	24.82%
1599-7002	For regional economic development projects related to the Mystic Valley Development Commission established by section 11 of chapter 294 of the acts of 1996	\$1,000,000
	Local Aid Fund	100.0%
1599-7006	For a reserve to meet the fiscal year 1999 costs of salary and benefit adjustments and other economic benefits authorized for those employees of the trial court who are covered by the collective bargaining agreement between the trial court of the commonwealth and the Office and Professional Employees International Union, Local 6 (AFL-CIO) Clerical Unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet the costs of such adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers	\$8,683,648
	Collective Bargaining Reserve Fund	100.0%
1599-7007	For a reserve to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments and other economic benefits to employees of the trial court employed in "confidential" positions who would otherwise be covered by collective bargaining agreements in effect for fiscal year 1999 and for the costs of salary adjustments and other economic benefits	

necessary to provide equal salary adjustments and economic benefits to employees who are not otherwise classified in any such collective bargaining unit; provided, that the secretary of administration and finance is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for fiscal year 1999 such amounts as may be necessary to meet the costs of said adjustments and benefits where the amounts otherwise available are insufficient for the purpose, in accordance with a transfer plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to charge to the Collective Bargaining Reserve Fund expenditures from the accounts which receive transfers from this item in amounts equal to the amounts of said transfers \$1,833,135

Collective Bargaining Reserve Fund 100.0%

1599-7010 For a reserve for the costs associated with the department of public health hospitals; provided, that the western Massachusetts hospital shall not be subject to the requirements set forth herein; provided further, that said hospitals shall submit the following to the secretary of administration and finance and to the chairmen of the house and senate committees on ways and means: (a) the fiscal year 1999 spending plans of each hospital, (b) notice within five business days when any deficiency is projected and the options being considered to minimize said deficiency, (c) a plan for the implementation of appropriate staffing patterns at each of the hospitals pursuant to section 278 of chapter 43 of the acts of 1997; provided further, that said department shall submit the information required by clauses (a) to (c), inclusive, not later than February 10, 1999; provided further, that the secretary of administration and finance is hereby authorized to transfer funds from this item to items 4590-0908, 4590-0909, 4590-0910, 4590-0911 subject to a transfer plan which shall be filed in advance with the chairmen of the house and senate committees on ways and means; and provided further, that no funds shall be transferred or allocated from this item to

any other item of appropriation until said department submits the information required by said clauses (a) to (c), inclusive, to said secretary of administration and finance and to the chairmen of the house and senate committees on ways and means \$10,420,054

Massachusetts Bay Transportation Authority.

1599-9150 For a reserve to implement the MBTA forward funding initiative, so-called; provided, that said reserve shall be available for the initial debt service payment on bonds issued for the purposes of defeasing all outstanding notes of the Massachusetts Bay Transportation Authority and of the commonwealth incurred on behalf of said authority, for the amortization of other debt or deficiencies incurred by or on behalf of said authority, and for planning and preliminary implementation costs necessary to establish said authority as a self-financing entity not later than July 1, 1999; provided further, that the treasurer and receiver general of the commonwealth is hereby authorized and directed to defease such notes in fiscal year 1999 pursuant to the terms and conditions established in section 2K of chapter 205 of the acts of 1996 or any subsequent statutory authority established for such purposes; provided further, that the secretary of administration and finance shall prepare an analysis of said authority's finances not later than December 1, 1998 that identifies all assets and liabilities of said authority; provided further, that said analysis shall include an evaluation of all outstanding debt backed by the full faith and credit of the commonwealth that require ongoing appropriations, if any; provided further, that said analysis shall identify any funding needs of said authority that require resolution prior to said July 1 to assure the ability of said authority to operate as a self-financing authority . . . \$16,000,000

Highway Fund 100.0%

1599-9952 For the purpose of contracting independent technical advisors to assist communities in evaluating and contributing to the central artery/third harbor tunnel project, including the Charles river crossing; provided, that the executive office for administration and finance may issue a request for

proposals for such technical advisor, said contract to be drafted in conjunction with designated representatives from the impacted neighborhoods; provided further, that not less than \$100,000 shall be expended from this item for a technical advisor to the North End/Waterfront area of the city of Boston; provided further, that not less than \$40,000 shall be expended for a technical advisor for the East Boston section of the city of Boston; provided further, that after such a contract for a technical advisor has been awarded, such advisor shall have access to data relative to design and mitigation; and provided further, that such independent technical advisor shall be accountable to and work directly with residents, designated community representatives and organizations of the aforementioned communities in assessing impacts and recommending alternative design modifications to the central artery/third harbor tunnel, prior appropriation continued \$140,000

Highway Fund 100.0%

Division of Human Resources.

1750-0100 For the operation of the division of human resources; provided, that the division shall be responsible for the administration of examinations for state and municipal civil service titles, establishment of eligible lists, certification of eligible candidates to state and municipal appointing authorities, technical assistance in selection, and appointment to state and municipal appointing authorities; provided further, that notwithstanding the provisions of paragraph (n) of section 5 of chapter 31 of the General Laws or any other general or special law to the contrary, the commissioner of administration shall charge a fee of \$35 to be collected from each applicant for a civil service examination; provided further, that no funds shall be obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to Executive Order 227 adopted on February 25, 1983; provided further, that the division shall administer a program of state employee unemployment management including, but not limited to, agency training and assistance; provided further, that the division shall, but not limited to, maintaining a classification pay plan for

administer the statewide classification system including civil service titles within the commonwealth in accordance with generally accepted compensation standards and reviewing appeals for reclassification; provided further, that upon certification of any open competitive list for a public safety position in a city or town, the personnel administrator shall cause to be published in a newspaper of general circulation in a city or town, public notice that such eligible list has been certified along with the notice of the last date to respond to the notice of circulation; provided further, that the secretary of administration and finance shall file with the house and senate committees on ways and means the amounts of any and all economic benefits necessary to fund any incremental cost items contained in any and all collective bargaining agreements with the various classified public employees' unions; and provided further, that the nature and scope of economic proposals contained in said agreements shall include all fixed percentage or dollar based salary adjustments, non-base payments or other forms of compensation and all supplemental fringe benefits resulting in any incremental costs \$4,793,599

1750-0102 The division of human resources is hereby authorized to expend revenues up to a maximum of \$1,400,000 from fees charged to applicants for civil service examinations and fees charged for the costs of goods and services rendered in administering training programs; provided, that said division is authorized to collect an administrative fee from vendors that submit proposals seeking to provide specialized training and consultation services; provided further, that any vendor which fails to pay said fee with its submission shall be deemed nonresponsive and shall not be considered for the awarding of a contract; provided further, that said division shall charge any costs incurred in training participants enrolled in programs sponsored by said division; and provided further, that said division is authorized to collect from participating non-state agencies, political subdivisions, and individuals a fee sufficient to cover costs of the commonwealth's performance recognition programs and expend such fees for goods and services rendered in the administration of these programs, including the costs of personnel \$1,400,000

Chap. 194

- 1750-0111 For the planning and implementation of a civil service continuous testing program; provided, that the division shall file quarterly reports with the house and senate committees on ways and means detailing the number of tests administered, and the amount of revenue collected, through said program \$330,820
- Local Aid Fund 65.0%
- General Fund 35.0%
- 1750-0115 For the operation of the bypass appeals process program, so-called; provided, that said division shall file quarterly reports with the house and senate committees on ways and means, including but not limited to, the number of appeals requested through said program, the number of appeals granted through said program, and the number of appeals resulting in the hiring of the appellant \$143,750
- 1750-0116 The human resources division is hereby authorized to expend an amount not to exceed \$15,750 for the operation of the continuous testing program, from revenue collected from fees charged to participants in said program \$15,750
- 1750-0200 For implementation of the wellness program established pursuant to sections 61A and 61B of chapter 31, and section 5A of chapter 32 of the General Laws; provided, that the personnel administrator shall charge a fee of not less than \$50 to be collected from each applicant who participates in the physical ability test; provided further, that the division of human resources shall submit a semi-annual report to the house and senate committees on ways and means detailing all expenditures on said program, including, but not limited to, the costs of personnel, consultants, administration of the wellness program, establishment of standards, and any other related costs of said program; and provided further, that said division shall report to the house and senate committees on ways and means by February 1, 1999 on the projected costs of said program for fiscal year 1999 \$1,537,170
- 1750-0300 For the commonwealth's contributions in fiscal year 1999 to health and welfare funds established pursuant to certain collective bargaining agreements; provided, that such contributions shall be calculated as provided in the applicable collective bargaining agreement and shall be

Chap. 194

paid to such health and welfare trust funds on a monthly basis or on such other basis as the applicable collective bargaining agreement provides \$15,984,204

Division of Operational Services.

- 1775-0100 For the operation of the operational services division; provided, that the commissioner of administration shall ensure that adequate resources are provided from this item for the maintenance of the government center medical unit at the same level as in fiscal year 1998 \$3,207,788
- 1775-0110 The operational services division is hereby authorized to expend for the costs associated with the Comm-PASS computer system, so-called, an amount not to exceed \$250,000 from revenues collected from the use of Comm-PASS by government entities other than state agencies and the sale of advertising space on Comm-PASS \$250,000
- 1775-0600 The operational services division is hereby authorized to expend revenues collected up to a maximum of \$135,000 from the sale of state surplus personal property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel \$135,000
- 1775-0700 The division of operational services is hereby authorized to expend revenues collected up to a maximum of \$130,000, in addition to the amount authorized in item 1775-1000 of section 2B, for printing, photocopying, related graphic art or design work and other reprographic goods and services provided to the general public, including all necessary incidental expenses \$130,000
- 1775-0900 The operational services division is hereby authorized to expend revenues in an amount not to exceed \$100,000, collected pursuant to chapter 449 of the acts of 1984 and section 4L of chapter 7 of the General Laws, including the costs of personnel, from the sale of federal surplus

property, including the payment, expenses and liabilities for the acquisition, warehousing, allocation and distribution of federal surplus property; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$100,000

1775-1100 The operational services division is hereby authorized to expend revenues in an amount not to exceed \$1,194,866 collected from the disposal of surplus motor vehicles including, but not limited to, state police vehicles from vehicle accident and damage claims, and from manufacturer warranties, rebates and settlements, for the purchase of motor vehicles; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the operational services division may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, including the costs of personnel \$1,194,866

Information Technology Division.

1790-0100 For the operation of the information technology division; provided, that notwithstanding the provisions of any general or special law to the contrary, said division shall approve any schedule of expenditures proposed by any agency under the control of the governor for any software development project or system purchase for which the total budgeted cost, including the costs of hardware purchased in conjunction with said project or system, exceeds \$200,000; provided further, that the director of said division shall adopt guidelines enforcing said prior approval requirement not later than September 1, 1998; provided further, that said division is hereby authorized and directed to continue a chargeback system for its bureau of computer services which complies with the requirements of section 2B; provided further, that said division shall continue conducting audits and surveys to

Chap. 194

identify and realize savings in the acquisition and maintenance of communications lines; provided further, that the commissioner shall file an annual status report with the house and senate committees on ways and means by May 14, 1999 with actual and projected savings and expenditures for said audits in the fiscal year ending June 30, 1999; and provided further, that the state comptroller shall establish accounts and procedures as he deems appropriate and necessary to assist in accomplishing the purposes of this item \$9,191,306

1790-0300 The information technology division is hereby authorized to expend up to a maximum of \$595,767 in revenues collected from the provision of computer resources and services to the general public for the costs of the bureau of computer services, including the purchase, lease or rental of telecommunications lines, services and equipment \$595,767

1790-0600 For the operation of the commonwealth's data warehouse \$911,863

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary

2000-0100 For the office of the secretary, including the water resources commission, the hazardous waste facility site safety council, the coastal zone management program, environmental impact reviews conducted pursuant to chapter 30 of the General Laws, the mosquito-borne disease vector control program, and a central data processing center for the secretariat; provided, that not less than \$510,000 of the amount appropriated herein shall be expended on the operations of an office of geographic and environmental information as established by section 4B of chapter 21A of the General Laws, as added by section 63; provided further, that not less than \$180,000 shall be expended for conservation districts; provided further, that not less than \$250,000 shall be expended for volunteer monitoring grants; provided further, that the secretary of the executive office of environmental affairs is hereby authorized to enter into interagency agreements with any line agency within said secretariat whereby the line agency may render data processing services to said secretary; provided further, that the comptroller is hereby authorized

to allocate the costs for such data processing services to the several state and other funds to which items of appropriation of such agencies are charged; provided further, that not less than \$55,000 shall be expended for printing of the Massachusetts environmental policy act monitor; provided further, that not less than \$200,000 shall be expended on a program of coastal resources monitoring and restoration focusing on all coastal regions of the commonwealth; provided further, that said program shall include technical assistance through the Massachusetts bays program, so-called; and provided further, that not less than \$100,000 shall be expended for a coastal shore water testing program administered by the coalition for Buzzards Bay \$3,291,729

General Fund 60.0%

Local Aid Fund 40.0%

2001-1001 The secretary of environmental affairs may expend an amount not to exceed \$200,000 accrued from the fees charged to authorities and units of government within the commonwealth, other than state agencies for the distribution of digital cartographic and other data, and the review of environmental notification forms pursuant to the Massachusetts environmental policy act, for the purposes of providing said services \$200,000

2010-0100 For recycling and related purposes consistent with the recycling plan of the solid waste master plan which includes municipal equipment grants, a municipal recycling incentive program, recycled product procurement, guaranteed annual tonnage assistance, recycling transfer stations, source reduction and technical assistance, consumer education and participation campaign, municipal household hazardous waste program, the recycling loan program, research and development, recycling market development and recycling business development, and the operation of the Springfield materials recycling facility; provided, that a grant shall be made to E-Call, Inc., to promote recycling; provided further, that not less than \$685,000 shall be expended for the recycling loan fund; provided further, that not less than \$877,000 shall be expended for business assistance and,

	research and development, including, the strategic envirotechnology partnership, so-called, at public, private and quasi-public educational and research institutions; provided further, that not less than \$400,000 of the amount appropriated herein shall be expended for a recycling industry reimbursement program pursuant to section 241A of chapter 43 of the acts of 1997, inserted by section 85 of chapter 88 of the acts of 1997; provided further, that \$58,000 shall be expended for the universal waste recycling project, so- called; provided further, that not less than \$2,500,000 shall be expended on municipal recycling incentive programs; provided further, that a grant shall be made to the southshore recycling cooperative, so-called; provided further, that the secretary of environmental affairs shall enter into all interagency service agreements necessary to effectuate the provisions of this item no later than August 31, 1998; and provided further, that the total amount of said inter-agency service agreements shall not be less than 75 per cent of the amount appropriated herein. . . .	\$7,000,000
	Clean Environment Fund	100.0%
2010-0111	For a grant to the city of Boston for technical assistance to the Haymarket Association	\$150,000
2020-0100	For toxics use reduction technical assistance and technology, in accordance with the provisions of chapter 21I of the General Laws	\$1,853,953
	Toxics Use Reduction Fund	100.0%
2060-0100	For the purpose of implementing the management plan adopted pursuant to section 12 of chapter 111H of the General Laws and for carrying out the powers and duties conferred to the program by said chapter 111H; provided, that a report shall be submitted to the house and senate committees on ways and means on or before November 1, 1998 detailing expenditures from the prior year; and provided further, that no money shall be expended from this item after November 1, 1998 unless or until such report has been filed with the house and senate committees on ways and means	\$227,447
	Low Level Radioactive Waste Management Fund	100.0%

Chap. 194

Department of Environmental Management.

- 2100-0005 For the department of environmental management pursuant to the purposes of section 10A½ of chapter 91 of the General Laws \$3,039,698
Harbors and Inland Waters Maintenance Fund . 100.0%
- 2100-1000 For the operation of the department of environmental management; provided, that funds shall be expended for the purposes of conducting a study of the assets owned by the department that shall determine the extent of deferred maintenance needs of said assets and that shall result in a management plan to address maintenance needs as delineated by said study \$2,327,077
Local Aid Fund 100.0%
- 2100-2002 The department is hereby authorized to expend \$200,000 from revenues received from interstate fire fighting services authorized under section 44 of chapter 138 of the acts of 1991; provided, that the department may expend from this item an amount equal to out of pocket expenses, so-called, and the costs of overtime and shift hours worked by employees of the department and the metropolitan district commission from reimbursements collected from the federal government for the costs of interstate fire fighting; provided further, that the department shall allocate such amounts to the metropolitan district commission for such purposes; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, said department and commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$200,000
- 2100-2030 For the recreational and resource conservation operations of the department; provided, that funds appropriated herein shall be used to operate all of the department's parks, heritage state parks, reservations, campgrounds, beaches, and pools, and for the oversight of rinks; provided further, that funds appropriated herein shall be used to protect and manage the department's lands and natural resources including the forest and parks conservation services and

	the bureau of forestry developments; provided further, that funding shall be available for an internship program for students at the University of Massachusetts Stockbridge school of forestry or other academic institutions providing similar training and education programs in forestry, recreation, natural resources, watershed management, or fire science; provided further, that not less than \$50,000 shall be expended for the promotion of tourism in the city of Fall River, including the Fall River heritage state park; provided further, that such funds shall be administered by the city of Fall River; provided further, that \$35,000 shall be expended for a supervisor at Lake Whitehall in Hopkinton; provided further, that no funds from this item shall be made available for payment to true seasonal employees, so-called; and provided further, that not less than \$175,000 shall be obligated for the Schooner Ernestina commission	\$22,138,901
2100-2040	For additional expenses, upkeep, and improvements to the department of environmental management's parks and recreation system; provided, that no funds from this item shall be expended for the costs of personnel, including seasonal employees; and provided further, that the department shall expend no less than \$90,000 for maintenance and capital needs at Salisbury State Reservation	\$2,500,000
	Second Century Fund	100.0%
2100-2045	For the completion of a one-time inventory of the department's state forest system	\$147,981
2100-2050	The department of environmental management is hereby authorized to expend revenues collected up to a maximum of \$150,000 from campsite reservation transactions from the automated campground reservation and registration program, so-called; provided, that said funds shall be expended for the operation of said program; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.	\$150,000

Chap. 194

- 2100-3010 For the summer and fall seasonal hires of the department, including hires for the fire control unit; provided, that the same number of lifeguards shall be assigned to Salisbury beach in fiscal year 1999 as were assigned to said beach in fiscal year 1998; provided further, that no funds shall be expended from this item for year-round seasonal employees, so-called; and provided further, that seasonal employees of the department who are hired prior to the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year 1998 shall continue to receive such benefits in fiscal year 1999 during the period of their seasonal employment. . . . \$3,994,701
- Local Aid Fund 90.0%
- Highway Fund 10.0%
- 2100-3011 For the winter and spring seasonal hires of the department, including hires for the fire control unit; provided, that no funds shall be expended from this item for year-round seasonal employees, so-called; and provided further, that seasonal employees who are hired prior to the second Sunday before Memorial Day and whose employment continues beyond the Saturday following Labor Day and who received health insurance benefits in fiscal year 1998 shall continue to receive such benefits in fiscal year 1999 during the period of their seasonal employment \$2,057,876
- Local Aid Fund 90.0%
- Highway Fund 10.0%

Department of Environmental Protection.

- 2200-0100 For the operation of the department of environmental protection, including the environmental strike force, the office of environmental results and strategic planning, the bureau of resource protection, the bureau of waste prevention, the Senator William X. Wall experimental station, and a contract with the University of Massachusetts for environmental research, notwithstanding the provisions of section 323F of chapter 94 of the General Laws; provided, that the provisions of section 3B of chapter 7 of the General Laws shall not apply to fees established pursuant to section 18 of chapter 21A of the General Laws; provided

further, that enactment of the appropriations made available by this act to the department shall be deemed a determination, pursuant to subsection (m) of section 18 of chapter 21A of the General Laws; provided further, that said appropriations for ordinary maintenance of said department from state funds other than the Environmental Challenge Fund and the environmental permitting and compliance assurance fund are comparable to the baseline figure, as defined in said subsection, based on inflation, the department's demonstrated program improvements and efficiencies in areas other than those supported by fees and added or reduced programmatic responsibilities of the department; provided further, that of the amount appropriated herein, not more than \$91,000 shall be expended in conjunction with phase II of the environmental results program, so-called, including one full-time equivalent position, and training; provided further that not less than \$50,000 shall be paid to the town of Clinton for the reconstruction and rehabilitation of the Mulberry Drive water tanks in the town of Clinton; provided further, that not more than \$535,000 shall be expended for technical assistance to communities to comply with provisions of Title V; provided further, that not less than \$250,000 shall be allocated to the Massachusetts Military Reservation Environmental Technology Center, so-called, pursuant to section 252 of chapter 38 of the acts of 1995; provided further, that of the amount appropriated herein the department shall expend \$425,000 to develop a comprehensive wastewater management plan, in accordance with all requirements of the department, for communities connected to the Massachusetts Water Resources Authority Braintree/Weymouth interceptor, so-called; provided further, that \$50,000 shall be transferred from this item to the University of Massachusetts at Amherst soil and science department for the purpose of collecting data from, and evaluating innovative greywater recycling systems; and provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 1998 detailing the number of full-time equivalent positions assigned to environmental permitting

functions and the number of full-time equivalent positions assigned to compliance inspections and environmental enforcement activities	\$25,591,994
General Fund	48.44%
Environmental Permitting and Compliance Fund	36.95%
Clean Environment Fund	14.61%

2200-0106 For the payment of charges assessed to the department of environmental protection for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of environmental protection, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of

Chap. 194

	funds between subsidiaries as authorized herein; and provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein	\$669,385
	General Fund	90.66%
	Clean Air Act Compliance Fund	6.13%
	Toxics Use Reduction Fund	3.21%
2200-0107	For the GG subsidiary expenses, so-called, of the department of environmental protection; provided, that if said department expends funds from any other item of appropriation for the purpose of paying said GG costs, the department shall send written notification to the house and senate committees on ways and means within 30 days of making said expenditure, detailing the amount and item from which said payment was made	\$4,863,863
	General Fund	94.21%
	Clean Air Act Compliance Fund	3.47%
	Toxics Use Reduction Fund	2.32%
2200-0150	For temporary assistance for the implementation of the Massachusetts rivers protection act, so-called, pursuant to chapter 258 of the acts of 1996; provided, that said assistance shall include, but not be limited to, funding of consultant contracts for the circuit rider program, so-called, the development and distribution of maps, and technical guidance materials	\$500,000
2210-0100	For the implementation and administration of chapter 21I of the General Laws; provided, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 1998 detailing the status of the department's progress in meeting the statutory and regulatory deadlines associated with said chapter 21I and detailing the number of full-time equivalent positions assigned to various implementation requirements of said chapter 21I	\$999,435
	Toxics Use Reduction Fund	100.0%
2220-2220	For the administration and implementation of the federal Clean Air Act, including the operating permit program, the emissions banking program, the auto related state implementation program, the low emission vehicle program, and	

Chap. 194

	the non-auto related state implementation program, so-called; provided, that not less than \$1,456,366 shall be expended for the operating permit program, so-called	\$2,154,968
	Clean Air Act Compliance Fund	100.0%
2220-3000	For the purpose of researching the long range transport of ground level ozone and its precursors, implementation activities for the proposed revised national ambient air quality standards, so-called, and the assessment and mitigation of the environmental impacts of utility deregulation	\$250,000
	Clean Air Act Compliance Fund	100.0%
2250-2000	For the purposes of state implementation of the federal safe drinking water act pursuant to section 18A of chapter 21A of the General Laws	\$1,691,691
	Safe Drinking Water Act Fund	100.0%
2260-8870	For the expenses of the hazardous waste cleanup and underground storage tank programs, notwithstanding the provisions of section 323F of chapter 94 of the General Laws and section 2K of chapter 29 of the General Laws and section 4 of chapter 21J of the General Laws; provided, that not less than \$25,000 shall be expended for the sea change project, so-called, in the evaluation and development of innovative technologies for hazardous waste remediation, brownfields development and ecosystem recovery associated with the superfund cleanup of the New Bedford harbor; and provided further, that the department shall submit a report to the house and senate committees on ways and means on or before October 1, 1998 detailing the number of full-time equivalent positions assigned to tier IA, tier IB, tier IC and tier II projects	\$15,038,724
	Clean Environment Fund	41.70%
	Environmental Challenge Fund	40.33%
	Local Aid Fund	8.63%
	General Fund	5.14%
	Underground Storage Tank Petroleum Product Cleanup Fund	4.20%
2260-8881	For the operations of the board of registration of hazardous waste site cleanup professionals, notwithstanding the provisions of section 19A of chapter 21A of the General Laws.	\$295,700
	Environmental Challenge Fund	100.0%

Chap. 194

Department of Fisheries, Wildlife and Environmental Law Enforcement.

- 2300-0100 For the office of the commissioner of the department of fisheries, wildlife and environmental law enforcement \$575,427
- General Fund 62.5%
- Environmental Law Enforcement Fund 12.5%
- Marine Fisheries Fund 12.5%
- Public Access Fund 12.5%
- 2300-0101 For a program of riverways protection, restoration, and promotion of public access to rivers, including grants to public and non- public entities; provided, that the positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws \$412,852
- Public Access Fund 59.23%
- General Fund 40.77%
- 2300-0104 For a conservation engineering program to promote alternative species fisheries through the development, testing and monitoring of new fishing gear and fishing techniques; provided, that the department shall conduct research on gear modifications that reduce the risk of entanglement of northern right whales and other protected species; and provided further, that said department shall fund emergency research and management measures in coastal waters of the commonwealth necessitated by the presence of northern right whales \$110,000
- Any federal funds received as reimbursements for expenditures from any of the following items shall be credited to the Inland Fisheries and Game Fund.
- 2310-0200 For the administration of the division of fisheries and wildlife, including expenses of the fisheries and wildlife board, the administration of game farms and wildlife restoration projects, for wildlife research and management, the administration of fish hatcheries, the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal aid to fish and wildlife restoration act; provided, that an amount shall be used by the University of Massachusetts at Amherst for the purposes of wildlife and fisheries research; provided further, that the University of Massachusetts at Amherst

Chap. 194

	shall receive no more than the amount received in fiscal year 1998 for said research; provided further, that expenditures for such programs shall be contingent upon prior approval of proper federal authorities for reimbursement of at least 75 per cent of the amount expended; provided further, that not more than \$200,000 of the sum appropriated herein may be obligated for a program of acid rain monitoring; and provided further, that \$40,000 shall be expended to implement the provisions of item 2310-8960 of section 2 of chapter 15 of the acts of 1996	\$6,860,354
	Inland Fisheries and Game Fund	100.0%
2310-0316	For the purchase of land containing wildlife habitat and for the costs of the division of fisheries and wildlife directly related to the administration of the wildlands stamp program pursuant to sections 2 and 2A of chapter 131 of the General Laws	\$2,000,000
	Inland Fisheries and Game Fund	100.0%
2310-0317	For the waterfowl management program pursuant to section 11 of chapter 131 of the General Laws	\$85,000
	Inland Fisheries and Game Fund	100.0%
2310-0500	For the expenses of a state funded program for natural heritage and environmental assessment	\$342,274
	Inland Fisheries and Game Fund	50.0%
	Natural Heritage and Endangered Species Fund	50.0%
2315-0100	For the administration of a program of non-game management and research	\$433,177
	General Fund	75.0%
	Natural Heritage and Endangered Species Fund	25.0%
2320-0100	For the administration of the public access board; provided, that positions funded herein shall not be subject to the provisions of chapter 31 of the General Laws	\$251,028
	Public Access Fund	100.0%
2320-0200	For the maintenance, operation, acquisition, and improvement of public access land and water areas, as authorized by section 17A of chapter 21 of the General Laws	\$720,000
	Public Access Fund	100.0%
2330-0100	For the operation of the division of marine fisheries, including expenses of the Annisquam river marine research	

laboratory, marine research programs, a commercial fisheries program, a shellfish management program including coastal area classification, mapping, and technical assistance, and for the operation of the Newburyport shellfish purification plant and shellfish classification program; provided, that \$300,000 shall be expended on a recreational fisheries program to be reimbursed by federal funds; provided further, that the Newburyport shellfish purification plant shall generate not less than \$115,000 from purification fees; and provided further, that not less than \$100,000 shall be expended for the joint operation of a shellfish propagation program on Cape Cod between the division and Barnstable county \$3,950,851

Marine Fisheries Fund 100.0%

2330-0120 For the division of marine fisheries for a program of enhancement and development of marine recreational fishing and related programs and activities, including the cost of equipment maintenance, staff, and the maintenance and updating of data \$735,995

Marine Fisheries Fund 100.0%

2330-0121 For the division of marine fisheries to utilize reimbursable federal sportfish restoration funds to further develop marine recreational fishing and related programs, including the costs of activities that increase public access for marine recreational fishing, support research on artificial reefs, and otherwise provide for the development of marine recreational fishing; provided, that not less than \$80,000 shall be expended for the research on artificial reefs; provided further, that the division of marine fisheries is hereby authorized to expend revenues up to \$467,000 collected from federal sportfish restoration funds and from the sale of materials which promote marine recreational fishing; and provided further, that this expenditure shall generate an additional \$350,000 reimbursement from the federal sportfish restoration program to the marine fisheries fund \$467,000

Marine Fisheries Fund 100.0%

2350-0100 For the operation of the division of environmental law enforcement; provided, that each county in the commonwealth shall be assigned at least one full-time environmen-

tal officer; provided further, that officers shall be assigned to vacant patrol districts; provided further, that officers shall provide monitoring pursuant to the national shellfish sanitation program; and provided further, that not more than \$20,000 shall be expended on the continued expansion of the communications network to join a statewide communications system with the executive office of public safety \$9,208,025

Environmental Law Enforcement Fund 50.0%
General Fund 35.0%
Highway Fund 15.0%

2350-0101 For the hunter safety training program \$271,175
Inland Fisheries and Game Fund 100.0%

2350-0104 For environmental police private details, so-called; provided, that the division is hereby authorized to expend revenues of up to \$150,000 collected from fees charged for private details \$150,000
Environmental Law Enforcement Fund 100.0%

Metropolitan District Commission.

2410-1000 For the administration of the metropolitan district commission; provided, that said commission shall enter into an interagency agreement with the department of state police to provide police coverage on commission properties and parkways; provided further, that said department shall reimburse the commission for costs incurred by the commission including, but not limited to, maintenance and repairs to the department's vehicles, the operation of buildings in which said department resides, and other related costs; provided further, that notwithstanding the provisions of section 3B of chapter 7 of the General Laws the commission is hereby authorized and directed to establish or renegotiate fees, licenses, permits, rents and leases, and to adjust or develop other revenue sources to fund the maintenance, operation, and administration of the commission; provided further, that an annual report shall be submitted to the house and senate committees on ways and means regarding fee adjustments not later than February 13, 1999; provided further, that notwithstanding the provisions of any administrative bulletin, general or

special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the operational services division; and provided further, that no funds shall be expended from this item for personnel overtime costs \$1,378,843

Local Aid Fund 75.0%

Highway Fund 25.0%

2410-1001 The metropolitan district commission is hereby authorized to expend \$100,000 for the operation and maintenance of the commission’s telecommunications system from revenues received from the Massachusetts Water Resources Authority, the Massachusetts Convention Center Authority, the department of highways central artery/third harbor tunnel project, so-called, the department of state police, and quasi-public and private entities through a system of user fees and other charges established by the commissioner; provided, that this item shall not impair or diminish the rights of access and utilization of all current users of the system pursuant to agreements which previously have been entered into with the commission; and provided further, that this item may be reimbursed by political subdivisions of the commonwealth and private entities for direct and indirect costs expended by the commission to maintain said telecommunications system \$100,000

2420-1400 For the watershed management program to operate and maintain reservoirs, watershed lands, and related infrastructure of the commission; provided, that expenses incurred in other commission programs to assist the watershed management program may be charged to this item; provided further, that no water shall be diverted from the Connecticut river by the metropolitan district commission or the Massachusetts Water Resources Authority; provided further, that \$500,000 shall be paid to the town of Clinton, pursuant to section 8 of chapter 307 of the acts of 1987, to compensate for the use of certain land; provided further, that the amount of said payment shall be charged to the local aid fund and not be included in the amount of the annual determination of fiscal year charges to the Massachusetts Water Resources Authority assessed to said authority under section 113 of chapter 92 of the General

Laws; provided further, that the metropolitan district commission shall provide the Massachusetts Water Resources Authority advisory board with an annual presentation of the expenses of watershed management operations funded by this item for which said authority is charged; provided further, that a work crew shall be made available at the Sudbury reservoir for maintenance of said reservoir; and provided further, that not less than 13 rangers shall be assigned to patrol watershed areas \$12,067,490

Watershed Management Fund 95.86%

Local Aid Fund 4.14%

2440-0010 For the administration, operation and maintenance of the metropolitan district commission parks and recreation division, for the maintenance, operation, and related costs of the parkways, boulevards, roadways, bridges and related appurtenances under the care, custody, and control of the commission, for the flood control activities of said commission, and for the purchase of all necessary supplies and related equipment; provided, that no funding shall be made available from this item for true seasonal employees, so-called; provided further, that of the amount appropriated herein, not less than \$1,300,000 shall be expended on general upkeep, deferred maintenance, and improvements to the commission's parks and recreational facilities; provided further, that funds shall be expended for a Neponset Reservation project manager; provided further, that not less than \$37,482 shall be expended for additional personnel in the Fells Reservation; provided further, that not less than \$51,000 shall be expended to assess flood damage to Pine Banks park and Forestdale cemetery; provided further, that not less than \$842,994 shall be expended for expenses of the state house park rangers, including the cost of personnel; provided further, that \$100,000 shall be expended for improvements to the land and the facilities of the Charles river esplanade in the city of Boston; provided further, that the commission shall develop a study detailing the maintenance needs of southwest corridor park, so-called, in the city of Boston, including a two year plan to repair the facilities of said park; provided further, that the commission shall expend

\$150,000 above the amount expended for maintenance of said park in fiscal year 1998 and shall enter into contracts for personnel and other resources necessary to implement said plan, including the costs of two horticulturists and a supervisor; provided further, that no full-time equivalent positions shall be added for the purposes of developing or implementing said plan; provided further, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws; provided further, that not less than \$50,000 shall be expended for improvements to Bellevue reservation in the West Roxbury section of the city of Boston including, but not limited to, ranger patrols of said reservation, lighting and irrigation; provided further, that not less than \$25,000 shall be expended for algae and weed treatment of the upper Mystic lakes; provided further, that \$10,000 shall be expended for payments to the Charles River Watershed Association for testing of fecal coliform levels in the Charles river and the posting of warning flags to indicate unsafe levels of contamination; provided further, that \$25,000 shall be expended for the beautification and maintenance of the two hillsides maintained by the commission, adjacent to the McGrath - O'Brien highway and Linwood street in the city of Somerville; provided further, that not less than \$150,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles river lakes district, including treatment and monitoring; provided further, that the commission shall assign a minimum of one park ranger to patrol the MDC park on Recreation road in the town of Weston from 9:00 a.m. until 6:00 p.m. each day between May 1 and September 30; provided further, that said commission is hereby authorized and directed to study the feasibility and benefit of establishing a fire control unit within said commission, so as to prevent, manage and suppress wildland and brush fires within the metropolitan park system; provided further, that not less than \$75,000 shall be expended for improvements to the Revere Beach parkway in the city of Everett; and provided further, that not less than \$37,000

Chap. 194

	shall be expended for the general upkeep and maintenance of the John Fitzgerald Kennedy Library park in the city Cambridge	\$27,674,206
	Highway Fund	60.0%
	Local Aid Fund	40.0%
2440-0045	For payment to the city of Boston for maintenance and operation of the James Michael Curley recreation center	\$293,116
	Local Aid Fund	100.0%
2440-1000	The metropolitan district commission is hereby authorized to expend an amount not to exceed \$100,000 from revenue generated pursuant to section 34B of chapter 92 of the General Laws	\$100,000
2440-1202	For the civilianization of crossing guards located at metropolitan district commission intersections where state police personnel previously performed such duties; provided, that not less than \$3,902 shall be expended on additional school crossing guards on the corner of Mystic avenue and Shore drive in the city of Somerville	\$223,902
2440-2000	For the expenses of snow and ice control on the metropolitan district commission parkways, including the costs of personnel	\$569,796
	Highway Fund	100.0%
2440-3000	For the extended rink season, including the costs of personnel.	\$517,283
	Local Aid Fund	100.0%
2440-3001	The metropolitan district commission is hereby authorized to expend an amount not to exceed \$403,506 from skating rink fees and rentals for the operation and maintenance, including personnel costs, of four rinks between September 1, 1998 and April 30, 1999 for an expanded and extended rink season	\$403,506
2440-4000	For the operation of the Ponkapoag golf course including maintenance, equipment, and capital improvements pursuant to section 2U of chapter 29 of the General Laws.	\$716,261
	Ponkapoag Recreational Fund	100.0%
2440-4500	For the operation of the Leo J. Martin golf course, including the costs of year round and true seasonal employees, so-called, pursuant to section 2II of chapter 29 of the General Laws	\$458,423
	Leo J. Martin Recreational Fund	100.0%

Chap. 194

2440-5000	For the summer and fall seasonal hires of the commission; provided, that no funds appropriated herein shall be used for year-round seasonals, so-called	\$2,500,480
	Highway Fund	60.0%
	Local Aid Fund	40.0%
2440-6000	For the winter and spring seasonal hires of the commission; provided, that no funds appropriated herein shall be used for year-round seasonals, so-called	\$566,851
	Highway Fund	60.0%
	Local Aid Fund	40.0%
2443-2000	For the operation of the Commonwealth Zoological Corporation, pursuant to chapter 92B of the General Laws; provided, that \$3,000,000 of the amount appropriated herein shall be used toward the improvement of the Franklin Park and Stone zoos and for the purposes of promoting private fund-raising, achieving self-sufficiency and serving as a catalyst for urban economic development and job opportunities for local residents; provided further, that said corporation shall take all steps necessary to increase the amount of private funding available for the operation of said zoos; provided further, that said corporation shall report to the house and senate committees on ways and means no later than March 1, 1999 on the status of, and amounts collected from, the private fundraising and enhanced revenue efforts identified in the draft Massachusetts zoos business and operations plan dated December, 1996; and provided further, that said corporation shall continue to provide free services and supplies, including, but not limited to, routine animal check-ups, diagnosis and care, emergency veterinary needs, medications and medical supplies, vitamins and diet supplements and Zoo Prem feline diet, to the trailside museum and the Chickatawbut Hill center in the town of Milton	\$6,000,000
	Local Aid Fund	100.0%
2444-9001	For the construction, reconstruction, and improvement of boulevards, parkways, bridges, and related appurtenances under the care, custody, and control of the commission	\$877,432
	Highway Fund	100.0%
2444-9004	For certain payments for the maintenance and use of the trailside museum and the Chickatawbut Hill center	\$375,000

Chap. 194

	Local Aid Fund	100.0%	
2444-9005	For street lighting on metropolitan district commission parkways		\$2,400,000
	Highway Fund	100.0%	
2460-1000	For the construction division; provided, that notwithstanding the provisions of any general or special law to the contrary, all offices and positions of the division shall be subject to classification under sections 45 to 50, inclusive, of chapter 30 of the General Laws		\$2,882,736
	Highway Fund	80.0%	
	Local Aid Fund	20.0%	

Department of Food and Agriculture.

2511-0100	For the operation of the department of food and agriculture, including the office of the commissioner, the expenses of the board of agriculture, the division of dairy services, the division of regulatory services and animal health, including a program of laboratory services at the University of Massachusetts at Amherst, the expenses of the pesticides board, the division of agricultural development and fairs, including the expenses of the agricultural lands board; provided, that allotment funds for 4-H activities may be expended from this item; provided further, that not less than \$287,245 shall be expended for the farmer's market coupon program; provided further, that not less than \$150,000 shall be expended for agricultural fair prizes, including prizes for pie baking; provided further, that not less than \$40,000 shall be expended for the cost of leased agricultural equipment at the Smith vocational high school in Northampton; provided further, that not less than \$55,000 shall be expended for the purposes of the mastitis laboratory at the University of Massachusetts at Amherst; provided further, that funds shall be made available from this item for the cranberry trade initiative, so-called; provided further, that not less than \$49,976 be expended on the rabies control program; and provided further, that \$300,000 shall be expended for implementation of the agricultural marketing strategic plan, including, but not limited to, a "Buy Local" campaign, so-called, and funding for agricultural business training and technical assistance		\$4,975,165
-----------	---	--	-------------

Chap. 194

2511-0101	For a reimbursement program for vendors which are certified by the commissioner of the department of food and agriculture pursuant to section 7A of chapter 128C of the General Laws, for all or part of the costs of preparing and placing for adoption greyhounds bred for racing which have reached the end of their racing career or for all or part of the costs incurred by such vendors for the humane disposition of said greyhounds	\$150,000
	Greyhound Disposition and Adoption Trust Fund 100.0%	
2511-0105	For the purchase of supplemental foods for the emergency food assistance program within the second harvest nationally-certified food bank system of Massachusetts; provided, that the funds appropriated herein shall be expended for food to be distributed by the greater Boston food bank as follows: 73.5 per cent to the greater Boston food bank, including a portion to be distributed to the Merrimack valley food bank pursuant to a contractual agreement between said food bank and the greater Boston food bank, 15.2 per cent to the food bank of western Massachusetts, and 11.3 per cent to the Worcester county food bank; and provided further, that no more than \$150,000 shall be made available for a statewide nutrition education program	\$6,430,000
2511-3002	For the integrated pest management program; provided, that not less than \$250,000 shall be expended for the purpose of a research grant at the University of Massachusetts; provided further, that said university shall not assess any overhead costs or charges to funds allocated to said university from this line item	\$399,500
2511-4010	For the development of the aquaculture program, including promotion, marketing, industry unification, and a grant program that is responsive to the needs of the Massachusetts aquaculture industry; provided, that not less than \$75,000 shall be expended for shellfish propagation on the islands of Martha's Vineyard and Nantucket to be administered jointly by the state aquaculture coordinator and Dukes and Nantucket counties	\$305,804
2520-0100	For the operation of the state reclamation board	\$57,661
	Mosquito and Greenhead Fly Control Fund 100.0%	

Chap. 194

For the expenses of the following mosquito control projects; provided, that persons employed in these projects shall be exempt from the provisions of section 29A of chapter 29 of the General Laws

2520-0300	For the Cape Cod mosquito control program	\$1,010,731
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-0900	For the Suffolk county mosquito control program	\$174,897
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1000	For the central Massachusetts mosquito control program	\$734,803
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1100	For the Berkshire county mosquito control program	\$107,912
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1200	For the Norfolk county mosquito control program, prior appropriation continued	\$747,190
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1300	For the Bristol county mosquito control program	\$587,200
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1400	For the Plymouth county mosquito control program	\$764,860
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1500	For the Essex county mosquito control program, including not less than \$75,000 for an aerial spray mosquito control program	\$487,915
	Mosquito and Greenhead Fly Control Fund	100.0%

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Office of the Secretary.

4000-0100	For the operation of the executive office; provided, that said executive office shall provide technical and administrative assistance to agencies receiving federal funds; provided further, that said executive office shall monitor the expenditures and completion timetables for systems development projects being undertaken by the department of social services, the division of medical assistance, and the department of transitional assistance, and shall ensure that all measures are taken to make said systems compatible with one another for enhanced interagency interaction; provided further, that said office shall report to the house and senate committees on ways and means and the secretary of
-----------	---

administration and finance on the progress of the development of said systems and the measures taken to ensure interagency cooperation not later than January 15, 1999; provided further, that said executive office shall continue to develop and implement the common client identifier, so-called; provided further, that said executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; and provided further that the executive office of health and human services and its agencies, when contracting for services on the islands of Martha's Vineyard and Nantucket, shall take into consideration the increased costs associated with the provisions of goods, services, and housing on said islands \$2,070,699

4000-0105 The executive office of health and human services is hereby authorized, subject to the provisions of this item relating to sections 1A and 1B, to expend revenues from federal reimbursements and other sources in an amount not to exceed \$3,000,000 for the continuation of funding in fiscal year 1999 for the pilot multi-disciplinary urban youth project known as the Annie E. Casey foundation initiative in fiscal year 1998; provided, that the goal of said project shall be to improve service delivery to those children and adolescents determined by a court of competent jurisdiction, the department of social services, the department of youth services, the department of mental health, or the school where said child is enrolled as a student, to be at risk out-of-home placement; provided further, that the secretary of health and human services shall award a contract funded from this item to an existing community-based vendor providing said services in fiscal year 1998 meeting the terms of performance standards established by the secretary of health and human services, which shall include, but not be limited to, the specific types of services and costs of such services to be funded by said contract, and a delineation of all planned expenditures consistent with the expenditure classification system established by the comptroller; provided further, that no funds from this item shall be used to purchase capital assets or equipment; provided further, that

any funds awarded from this item shall be in addition to and not supplant existing state funds; provided further, that any mental health services provided pursuant to said contract shall be delivered by licensed professionals in the mental health field; provided further, that expenditures made pursuant to said contract shall not annualize in fiscal year 2000 beyond the amount appropriated herein; provided further, that any such annualization expended by the commonwealth in said fiscal year shall be funded by agencies of the commonwealth based on a finding to be made by said secretary that said contract's performance standards have been achieved in a cost-effective manner; provided further, that said contract shall not be renewed in the event said finding is not made by May 1, 1999; provided further, that no revenues shall be credited to this item until the secretary of administration and finance certifies that the secretariat of health and human services has met or exceeded the revenue estimates delineated in said sections 1A and 1B and the comptroller has certified that expenditure of said revenues shall not have a negative impact on the revenue optimization program, so-called; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the comptroller shall establish monthly benchmarks for the collection of said revenues consistent with meeting or exceeding said revenue estimates in said sections 1A and 1B; provided further, that before depositing any revenue in this account, the comptroller shall certify that the secretariat's revenue collections are meeting or exceeding said benchmarks; provided further, that the comptroller shall submit a report on the calculation of said benchmarks to the house and senate committees on ways and means on or before August 14, 1998; provided further, that no reimbursements attributable to any department of social services expenditures shall be counted in said estimate or credited to this item; provided further, that said secretary may designate agencies within the secretariat to receive and expend said revenues; provided further, that an agency designated by said secretary may incur expenses and the comptroller shall certify for payments amounts not to exceed the authorization

allowed by said secretary; and provided further, that said secretary shall submit to the secretary of administration and finance and the house and senate committees on ways and means the results achieved with the funding appropriated to said Annie E. Casey foundation initiative during fiscal years 1993 until 1999, on or before January 1, 1999, prior appropriation continued \$3,000,000

4000-0107 For a reserve to fund the strategic delivery of statewide domestic violence assistance services; provided, that the executive office of health and human services shall work in conjunction with the department of social services, other departments within the secretariat, the department of public safety, the office of victim and witness assistance, the department of housing and community development, the office of the attorney general, the office of refugees and immigrants, the district attorneys, and the Massachusetts Coalition of Battered Women Service Groups which shall ensure regional participation of current services providers, to develop a detailed plan for the integrated provision of services to domestic violence victims and their families; provided further, that said plan shall include an examination of the existing service delivery models of assistance to persons in domestic violence situations, including, but not limited to, sheltering services, medical and psychological treatment, and legal and other advocacy services; provided further, that said plan shall also include proposed revisions to departmental regulations in order to provide service enhancements to said persons from ethnic and linguistic minorities and said persons with mental illness, physical disabilities, and substance abuse treatment needs; provided further, that said plan shall include additional proposed revisions to departmental regulations, in particular those which set formulas for funding and those such may create barriers to enhanced service provision, which revisions shall place emphasis on developing criteria for funding that will ensure appropriate regional distribution of services in order to maximize accessibility and create access to services; provided further, that said plan shall include an estimate of the statewide need for additional shelter beds and safe homes, so-called, and recommendations to address the

housing needs of said persons; provided further, that said executive office shall ensure that all measures are taken for enhanced interagency interaction to address the service needs of this population; provided further, that said services may include additional shelter beds and "safe home" slots, so-called, the extension of the duration of shelter services designed for persons in domestic violence situations, and the costs of developing and implementing a statewide hotline dedicated to receiving calls from such persons and designed to track the outcomes of such calls; provided further, that said plan shall be filed with the house and senate committees on ways and means not later than November 12, 1998; provided further, that no funds shall be allocated, transferred, or expended from this item until said executive office submits said plan to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that not less than \$50,000 be authorized for On The Rise Shelter for Women, in Cambridge; provided further, that \$120,000 shall be expended for domestic violence prevention, outreach, and intervention services to homosexual male victims of domestic violence; and provided further, that not less than \$100,000 shall be expended for an address confidentiality for victims of domestic violence pilot program to be developed in conjunction with the state secretary and the Massachusetts Coalition of Battered Women Service Groups. . . . \$3,324,000

4000-0110 For matching grants to municipalities for a pilot program to prevent high rates of juvenile delinquency, teen pregnancy, and high school drop-out rates for youths-at-risk, so-called, in neighborhoods identified by the secretary of health and human services as benefiting from intensive proactive intervention; provided, that said program shall be structured to require collaboration in each such neighborhood between agencies of said executive office and the human services, education, the county sheriff's office, and public safety departments of each participating municipality; provided, that no funds appropriated herein shall be allotted or disbursed prior to the receipt of equal matching funds from such municipalities; provided further, that youths-at-risk shall include, but need not be limited to, those teenagers and

pre-teenagers identified with histories of court involvement, significant or continuous exposure to criminal behavior in their household, truancy, homelessness, "children-in-need-of-services" status, or involvement with the departments of social services or youth services; provided further, that funds from this item may be expended to provide after-school programs that include parental accountability and training, court-based assessments, mentoring, substance abuse prevention and recreational programs; provided further, that any contract awarded to any municipality shall be performance-based and shall require reporting requirements which will provide for a study of the longitudinal effects of said program; and provided further, that said community-based organizations may qualify for grants from amounts awarded to said state-municipal collaborative pilot programs \$3,000,000

4000-0115 For a contract with Massachusetts Families for Kids; provided, that said organization shall develop a plan to become self-sufficient within three years \$648,000

4000-0122 For a citizenship assistance program to assist legal non-citizens in becoming citizens of the United States; provided, that the executive office of health and human services is authorized and directed to enter into an interagency service agreement with the office for refugees and immigrants for the administration of said program; provided further, that said program shall be administered in consultation with said executive office, the department of transitional assistance, and the division of medical assistance; provided further, that said program shall be provided through community-based organizations to the maximum extent determined appropriate by the office for refugees and immigrants; provided further, that the program funded by this item: (1) shall provide assistance to persons who are eligible to become citizens of the United States within three years; (2) may be funded not only through state appropriations but also through matching financial or in-kind contributions by private organizations or local government agencies; provided further, that persons who would qualify for benefits provided pursuant to chapter 118A of the General Laws, but for their status as legal non-citizens shall be accorded the highest priority for provision of services,

provided further, that said program shall neither be an entitlement, nor be construed to create an entitlement, and shall be subject to state appropriation; provided further, that the office for refugees and immigrants shall issue quarterly reports to the house and senate committees on ways and means and to the executive office of administration and finance on the number of persons participating in said program and the number of persons attaining citizenship in each quarter; provided further, that said report shall also detail the number of participants in said program receiving state-funded benefits by category of benefits and the federal benefits each participant would have been eligible for, but for his status as a legal non-citizen; provided further, that said office for refugees and immigrants shall report quarterly to the house and senate committees on ways and means and the executive office of administration and finance on the amounts of matching or in-kind contributions by private organizations or local government agencies; provided further, that no funds shall be expended from this item to replace expiring federal funds; provided further, that no funds shall be expended from this item for AA subsidiary payroll costs, so-called; and provided further, that it is declared to be the intention of the general court that this program shall not continue beyond fiscal year 2000 and that not more than an aggregate amount of \$6,000,000 shall be expended for the purposes of said program during the period from fiscal year 1998 through fiscal year 2000, inclusive \$2,000,000

Division of Medical Assistance.

- 4000-0300 For the operation of the division, including the administrative costs related to the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided, that the same standards and regulations in place for personal care attendants and score III, so-called, in fiscal year 1998 shall be retained in fiscal year 1999; provided further, that in consultation with the division of health care finance and policy, the division shall not approve any increase in existing medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not

exceed such rates as are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that expenditures for the purposes of each item appropriated to the division by this act shall be accounted for according to such purpose on the Massachusetts management, accounting and reporting system not more than ten days after such expenditures have been made by the medicaid management information system; provided further, that the division shall not make expenditures that are not federally reimbursable, except as specifically authorized herein, or unless made for cost containment efforts the purposes and amounts of which have been submitted to the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the division may continue to recover provider overpayments made in the current and prior fiscal years through the medicaid management information system, and that such recoveries shall be deemed current fiscal year expenditure refunds, so-called; provided further, that the division shall report quarterly to the house and senate committees on ways and means the amounts of said expenditure refunds credited to each item of appropriation; provided further, that unless otherwise expressly authorized by law, the division shall deposit all federal funds received in the General Fund; provided further, that the division shall report quarterly to the house and senate committees on ways and means the amount of hand generated payments, so-called, to providers by item of appropriation from which said payments were made; provided further, that the definitions for the personal care attendant program as set forth in 130 C.M.R. 422.402 and the operating procedures as set forth in 130 C.M.R. 422-421 shall not be changed from those in effect on January 1, 1996 until July 1, 1999, or until agreement is reached between the division of medical assistance and designees of the governor's advisory commission on disability policy, the Massachusetts office on disability, and the statewide independent living council regarding the legal and fiscal responsibilities associated with the employment of personal care attendants; and provided further, that the division shall, subject to the availability of federal financial

Chap. 194

	participation, authorize durable medical equipment that is prescribed for preventative services	\$39,001,776
	General Fund	85.84%
	Children's and Seniors' Health Care Assistance Fund	14.16%
4000-0308	For a reserve for the operation of the division; provided, that no expenditures shall be made from this item prior to the submission by the division to the house and senate committees on ways and means and the executive office of administration and finance data for fiscal year 1998 and the first two quarters of fiscal year 1999 consisting of: (1) monthly expenditure data for items 4000-0430, 4000-0460, 4000-0500, 4000-0600, and 4000-0700 of this act, including monthly member-month caseload, date-of-service and date-of-payment expenditure data by provider type and health benefit plan; (2) monthly expenditure data for items 4000-0860, 4000-0870, 4000-0880, and 4000-0890 of this act which, pursuant to the budget neutrality analysis dated February 24, 1998, shall identify, by item of appropriation, total caseload and member-months for participants in the standard, basic, and family assistance plans, delineated by age, disability status and direct coverage or premium assistance type of coverage and respective per member per month rates for each such category of eligibility; and (3) monthly expenditure data for item 4000-0450, including monthly member-month caseload and expenditure data required pursuant to the provisions of section 16B of chapter 118E of the General Laws; and provided further, that all expenditures from this item shall be made for the purposes of item 4000-0300	\$1,000,000
	General Fund	85.84%
	Children's and Seniors' Health Care Assistance Fund	14.16%
4000-0309	For administrative expenses of the division made pursuant to the EE subsidiary, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the EE subsidiary, so-called; and provided further, that no funds from any other item of state appropriation available to the division shall be used for said expenses except as specifically authorized in any such item. . . .	\$3,977,868

Chap. 194

	General Fund	85.84%
	Children's and Seniors' Health Care Assistance Fund	14.16%
4000-0310	For administrative support and related services purchased contractually by the division, including contracted services necessary for the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided, that said services shall include but shall not be limited to, pre-admission screening, utilization review, medical consultants, disability determination reviews, health benefit managers and interagency service agreements; provided further, that not less than \$1,602,342 shall be provided for an interagency service agreement with the executive office of elder affairs that provides for the transfer of funds from this item for the costs of administering enrollment in the senior pharmacy assistance program established pursuant to the provisions of said section 16B; provided further, that not less than \$500,000 shall be distributed to home care corporations for the purposes of said interagency service agreement; provided further, that a summary description of interagency service agreements for which funds are allocated by the division to other agencies shall be submitted to the house and senate committees on ways and means not more than ten days after making such allocations; provided further, that no funds shall be expended from this item for the contracted services funded in item 4000-0325; provided further, that no funds shall be expended by the division for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement, so-called, with the office of civil rights or any other office, group, or entity; and provided further, that interpretive services currently provided by the division shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services	
	General Fund	85.84%
	Children's and Seniors' Health Care Assistance Fund	14.16%
4000-0320	The division of medical assistance may expend an amount not to exceed \$65,000,000 from the monies received from	

recoveries of any prior year expenditures and collections from liens, estate recoveries, third party recoveries, drug rebates, accident and trauma recoveries, case mix recoveries, computer audits, insurance recoveries, provider overpayment recoveries, bankruptcy settlements, masspro and healthpro refunds, medicaid fraud returns, data match returns, medicare appeals, and program and utilization review audits; provided, that any revenues collected by the division that are not attributable to the aforementioned categories shall be deposited in the General Fund and shall be tracked separately therein; provided further, that additional categories of recoveries and collections may be credited to this item after providing written notice to the house and senate committees on ways and means; provided further, that no funds from this item shall be used for the purposes of items 4000-0300, 4000-0308, 4000-0309, 4000-0310, or 4000-0325; provided further, that expenditures from this item shall be limited solely to payments for the provision of medical care and assistance rendered in the current fiscal year; and provided further, that the division shall file quarterly with the house and senate committees on ways and means, a report delineating the amount of current year rebates from pharmaceutical companies or other current year collections which are being used to supplement current year expenditures \$65,000,000

4000-0325 For the non-personnel systems costs of the division, including such costs incurred as a result of the implementation and operation of programs authorized by sections 9A to 9C, inclusive, and sections 16B and 16C of chapter 118E of the General Laws; provided, that such systems costs may include contracts for the management and operation of the central automated vendor payment system, including the recipient eligibility verification system, vendor contracts to upgrade and enhance the division's central automated vendor payment system, the medicaid management information system, so-called and the recipient eligibility verification system, MA21, so-called, the EE subsidiary costs, so-called, related to information technology division chargebacks, contracted staff whose main duties are systems related, and personal computers and other systems equipment used by

	division staff; and provided further, that 50 per cent of the cost of provider point of service eligibility verification devices purchased by the division shall be assumed by the providers utilizing said devices	\$31,547,461
	General Fund	85.84%
	Children's and Seniors' Health Care Assistance Fund	14.16%
4000-0430	For the commonhealth program to provide primary and supplemental medical care and assistance to disabled adults and children pursuant to sections 9A, 16 and 16A of chapter 118E of the General Laws; provided, that no funds shall be expended from this item for expenses incurred in prior fiscal years; provided further, that the division shall maximize federal reimbursement for state expenditures made on behalf of said adults and children; provided further, that the division shall close enrollments or promulgate regulations that adjust eligibility, benefits and other requirements to limit expenditures to the amount appropriated herein; provided further, that the division shall adhere to the same time standards for processing of a commonhealth application as govern applications under Title XIX of the federal Social Security Act namely within 45 days of receipt of a completed application, or within 90 days if a determination of disability is required; and provided further, that children shall be determined eligible for said medical care and assistance if said children meet the disability standards as defined by the division of medical assistance and that said disability standards shall be no more restrictive than the standards in effect on July 1, 1996	\$25,051,212
4000-0450	For a pharmacy assistance program for eligible residents of the commonwealth aged 65 or older, pursuant to the provisions of section 16B of chapter 118E of the General Laws	\$30,000,000
	Children's and Seniors' Health Care Assistance Fund	100.0%
4000-0460	For an interagency service agreement with the executive office of elder affairs to provide home care services to eligible recipients through the enhanced community options program, so-called, the home health substitution initiative, so-called, and the nursing home light care initiative, so-	

Chap. 194

	called; provided, that the executive office of elder affairs shall ensure that the home care corporations or other entities that receive funds from this item shall comply with any performance measures, outcome goals and cost-effectiveness standards established by the division and the executive office of elder affairs pursuant to the terms of said interagency service agreement	\$7,793,000
4000-0500	For health care services provided to medical assistance recipients under the division's primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the division; provided, that not more than \$203,290,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that the commissioners of the division of medical assistance and the department of mental health shall report quarterly to the house and senate committees on ways and means relative to the performance of the managed care organization under contract with the division to administer the mental health and substance abuse benefit; and provided further, that such quarterly reports shall include, but shall not be limited to, analyses of utilization trends, quality of care and costs across all service categories and modalities of care purchased from providers through the mental health and substance abuse program, including those services provided to clients of the department of mental health	\$1,371,400,000
4000-0600	For health care services provided to medical assistance recipients under the division's senior care plan; provided, that not more than \$217,770,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that notwithstanding the provisions of item 4000-0310 to the contrary, not less than	

\$8,600,000 shall be made available from this item to pay for the cost of home and community-based health waiver services provided to elderly medicaid recipients enrolled in the section 2176 waiver, so-called; provided further, that the division is hereby authorized to seek any federal waivers necessary to establish a managed care program for dually-eligible seniors, so-called; provided further, that said program shall integrate services covered by medicare and medicaid, including home and community-based support services, for the purpose of providing said seniors with high quality, accessible, cost-effective care which shall enable said seniors to maintain the highest feasible functional level; provided further, that said waiver shall not take effect unless specifically authorized by law; and provided further, that expenditures from this item shall be made only for the purposes expressly stated herein \$1,506,037,000

4000-0700 For health care services provided to medical assistance recipients under the division’s health care indemnity/third party liability plan and medical assistance recipients not otherwise covered under the division’s managed care or senior care plans; provided, that not more than \$118,420,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that not less than \$900,000 shall be made available from this item to pay for the cost of a program of outreach and follow-up services conducted by agencies certified as comprehensive family planning agencies to increase the utilization of comprehensive family planning services known as the Keep Teens Healthy Project, so-called; and provided further, that expenditures from this item shall be made only for the purposes expressly stated herein \$590,620,000

4000-0860 For MassHealth benefits provided to children and adults pursuant to the provisions of clauses (a), (b), (c), (d) and (h) of subsection 2 of section 9A of chapter 118E of the General Laws; provided, that no funds shall be expended from this item for children and adolescents pursuant to the provisions of clause (c) of said subsection 2 whose family incomes, as

Chap. 194

	determined by the division, exceed 150 per cent of the federal poverty level; provided further, that not more than \$19,654,000 shall be expended from this item for health care services provided to said children and adults in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item pursuant the provisions of Title XIX and Title XXI of the federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund	\$160,050,381
	Children's and Seniors' Health Care Assistance Fund	100.0%
4000-0870	For health care services provided to adults participating in the medical assistance program pursuant to clause (g) of subsection 2 of section 9A of chapter 118E of the General Laws; provided, that not more than \$11,220,000 shall be expended from this item for health care services provided to said recipients in prior fiscal years; and provided further, that all revenues received as a result of expenditures authorized herein shall be credited to the Children's and Seniors' Health Care Assistance Fund	\$91,677,911
	Children's and Seniors' Health Care Assistance Fund	100.0%
4000-0880	For MassHealth benefits pursuant to the provisions of clause (c) of subsection 2 of section 9A and section 16C of chapter 118E of the General Laws for children and adolescents whose family incomes as determined by the division are above 150 per cent of the federal poverty level; provided, that funds may be expended from this item for health care services provided to said children and adolescents in prior fiscal years; and provided further, that all federal reimbursements received for expenditures from this item pursuant the provisions of Title XXI of the federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund	\$13,039,747
	Children's and Seniors' Health Care Assistance Fund	100.0%
4000-0890	For the cost of health insurance premium subsidies paid to employees of small businesses participating in the insurance reimbursement program pursuant to the provisions of	

section 9C of chapter 118E of the General Laws; provided, that all federal reimbursements received for expenditures from this item pursuant the provisions of Title XIX and Title XXI of the federal Social Security Act shall be credited to the Children's and Seniors' Health Care Assistance Fund \$32,209,639

Children's and Seniors' Health Care Assistance
Fund 100.0%

4000-0891 For the cost of health insurance subsidies paid to employers participating in the insurance reimbursement program pursuant to the provisions of section 9C of chapter 118E of the General Laws; provided, that the division shall directly market said program to private human service providers that deliver human and social services under contract with departments within the executive office of health and human services and the executive office of elder affairs for the purpose of mitigating health insurance costs to said employers and their employees; provided further, that on or before May 1, 1999 the division shall report to the house and senate committees on ways and means and the executive office of administration and finance on the specific measures taken to promote said participation, the number of said employers and their employees electing to participate in said program, and the monthly costs of subsidies paid by the division on their behalf; provided further, that the division shall report monthly to the house and senate committees on ways and means and the executive office of administration and finance monthly expenditure data for said program, including the total number of employers participating in said program, the percentage of said employers who purchased health insurance for employees prior to participating in said program, and total monthly expenditures delineated by payments to small employers and self-employed persons for individual, two-person, and family subsidies; and provided further, that the division shall seek federal reimbursement for said payments to employers \$8,949,540

Children's and Seniors' Health Care Assistance
Fund 100.0%

Division of Health Care Finance and Policy.

4100-0060 For the operation of the division and the administration of the uncompensated care pool established pursuant to

chapter 118G of the General Laws; provided, that notwithstanding the provisions of any general or special law to the contrary, the assessment to acute hospitals authorized pursuant to section 5 of chapter 118G of the General Laws for the estimated expenses of the division shall be made pursuant to the provisions of section 283 of this act; provided further, that the division shall promulgate regulations requiring all hospitals receiving payments from the uncompensated care pool to report quarterly to the division the following utilization information: the number of inpatient admissions and outpatient visits by age category, income category, diagnostic category and average charge per admission; provided further, that the division shall submit quarterly to the house and senate committees on ways and means a summary report compiling said data; provided further, that the division, in consultation with the division of medical assistance, shall not promulgate any increase in medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act or any successor federal statute to ensure that rates of payment to providers do not exceed such rates as are necessary to meet only those costs incurred by efficiently and economically operated providers in order to provide services of adequate quality; provided further, that the division shall meet the reporting requirements of section 25 of chapter 203 of the acts of 1996; provided further, that the division shall share financial data and expertise about the Massachusetts health care industry with the Massachusetts institute for social and economic research for the purpose of enhancing, developing and marketing data products for the public; provided further, that the division and the institute shall share any revenue generated through sale, licensure, royalty, and usage fees charged for said data products; and provided further, that, no later than October 1, 1998, the division shall submit to the comptroller and to the house and senate committees on ways and means a report describing the method by which the division shall generate revenues through said sale, licensure, royalty, and usage fees in an amount sufficient to meet 25 per cent of the projected costs of the division in any fiscal year, as required by section 612 of chapter 151 of the acts of 1996

\$8,981,177

- 4100-1054 For the purpose of making initial gross payments to qualifying acute care hospitals from the uncompensated care pool pursuant to the provisions of chapter 118G of the General Laws, for the hospital fiscal year beginning October 1, 1998; provided, that said payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said pool; provided further, that the comptroller is hereby authorized and directed to transfer the amount appropriated herein to said pool for the purpose of making such payments; provided further, that the amount appropriated herein, less any amount that is certified by the commissioner as unable to be collected from said hospitals, shall be returned proportionately to the General Fund and the Local Aid Fund at the end of the fiscal year ending June 30, 1999; provided further, that in no event shall the amount unable to be collected from a hospital exceed for any hospital which is a net payer to said pool the pool's gross liability to such hospital or for any hospital which is a net payee from said pool the pool's gross liability to such hospital; and provided further, that the comptroller is hereby authorized and directed to transfer to the General Fund as of said June 30 the balance of this appropriation and any allocation thereof as certified by the commissioner \$30,000,000
- | | |
|--------------------------|-------|
| General Fund | 66.0% |
| Local Aid Fund | 34.0% |

Massachusetts Commission for the Blind.

- 4110-0001 For the office of the commissioner and bureau of research; provided, that amounts appropriated in items of this department that extend or expand services beyond the level of services provided in fiscal year 1998 shall not annualize above said amounts in fiscal year 2000 \$614,492
- 4110-1000 For the community services program; provided, that the commission shall extend services beyond the level of services provided in fiscal year 1998, including, \$100,000 for after-school programming for children deemed to be clients of said commission, \$112,500 for respite services for such children, and \$225,000 for assistive technology devices for clients of the commission; provided further, that not less than \$400,000 shall be expended for the talking information

Chap. 194

	center; and provided further, that not less than \$10,000 shall be expended for the audible local ledger of Falmouth	\$3,612,365
4110-1010	For aid to the adult blind; provided, that funds may be expended from this item for burial expenses incurred in the prior fiscal year	\$8,702,564
4110-1020	For eligibility determination for the medical assistance program for the blind; provided, that the commission is hereby authorized and directed to work with the division of medical assistance, the department of mental retardation and other state agencies to maximize federal reimbursement for clients so determined through this item, including, but not limited to, reimbursement for home and community-based waiver clients	\$417,952
4110-2000	For the Turning 22 program of the commission; provided, that the amount funded herein for new clients participating in said program in fiscal year 1999 shall not exceed \$450,000 and shall not annualize to more than \$920,678 in fiscal year 2000; provided further, that nothing stated herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that the commission shall work in conjunction with the department of mental retardation to secure the maximum amount of federal reimbursements available for the care of Turning 22 clients; and provided further, that the commission shall work in conjunction with the department of mental retardation to secure similar rates for contracted residential services	\$6,469,661
4110-3010	For a program of vocational rehabilitation for the blind in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grants or state appropriation shall be deducted for pensions, group health and life insurance, or any other such indirect cost of federally reimbursed state employees; provided further, that \$163,000 of the amount appropriated herein shall be obligated for the purpose of mitigating inequitable reimbursement rates for the Carroll Center for the Blind; and provided further, that not less than \$950,000 shall be expended for technological adaptations to increase vocational opportunities for the blind	\$2,409,407

Chap. 194

4110-4000 For the administration of the Ferguson Industries for the blind; provided, that retired workshop employees shall receive grants equal to three-fourths of the salaries of current workshop employees; and provided further, that any funds received for goods and services purchased by private and public sector entities at Ferguson Industries shall be remitted to the General Fund \$1,675,811

Massachusetts Rehabilitation Commission.

4120-1000 For the operation of the commission; provided, that the commissioner shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the number of clients served and the amount expended on each type of service; provided further, that upon the written request of the commissioner of the department of revenue, said commissioner shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs administered by the commission; provided further, that said lists shall include client names and social security numbers and payee names and other identification, if different from a client's; and provided further, that amounts appropriated in items of this department that extend or expand services beyond the level of services provided in fiscal year 1998 shall not annualize above said amounts in fiscal year 2000 \$362,662

4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees; and provided further, that not less than \$155,000 shall be expended on special vocational projects in the Charlestown section of the city of Boston \$6,405,313

4120-3000 For employment assistance services; provided, that vocational evaluation and employment services for severely physically disabled adults may, subject to appropriation, be provided; and provided further, that not less than \$150,000 be expended for the Charlestown navy yard special project for physically disabled adults \$7,656,896

Chap. 194

4120-4000	For independent living assistance services; provided, that the commission shall extend services beyond the level of services provided in fiscal year 1998, including, \$900,000 for additional services provided through independent living centers, so-called; provided that not less than \$15,000 shall be expended for Living Independently For Equality Inc. of Brockton; and provided further, that not less than \$200,000 for the Turning 22 program of the commission	\$5,223,798
4120-4001	For the housing registry for the disabled	\$100,000
4120-5000	For homemaking services	\$4,500,368
4120-6000	For head injured services; provided, that not less than \$50,000 shall be expended for the Cape Cod head injury program	\$6,691,328
4120-6001	For the additional expenses of providing head injured services; provided, that the commission shall expend not more than \$250,000 for the establishment of a pilot 24 hour residential head injury program to provide recurring residential services to persons with severe head injuries; provided further, that said pilot program shall be located in western Massachusetts; provided further, that the remaining funds not obligated to said pilot program shall be expended solely for the cost of non-recurring services to the head injured; provided further, that said remaining funds shall not be used to supplant existing services provided under item 4120-6000; provided further, that all unexpended funds from this item shall revert to the Head Injury Treatment Services Trust Fund; provided further, that the commission shall perform outreach and provide information to the courts of the commonwealth regarding services provided through this item and the various revenue sources which fund the Head Injury Treatment Services Trust Fund; and provided further, that the commission shall report quarterly to the house and senate committees on ways and means and the secretary on administration and finance on the balance of the Head Injury Treatment Services Trust Fund and on the balance of said fund from the corresponding quarter of the prior fiscal year.	\$750,000
	Head Injury Treatment Services Trust Fund	100.0%
4120-6002	The commission is hereby authorized to expend an amount not to exceed \$2,000,000 from fees collected pursuant to section 20 of chapter 90 of the General Laws for rehabilitation	

services for head injured persons; provided, that the commission shall report to the house and senate committees on ways and means no later than January 31, 1999 detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased, and the annualized impact of said expenditures in the subsequent fiscal years; and provided further, that funds appropriated herein shall not be used to supplant existing services provided under item 4120-6000 \$2,000,000

Head Injury Treatment Services Trust Fund 100.0%

Massachusetts Commission for the Deaf and Hard of Hearing.

- 4125-0100 For the operation of and services provided by the commission for the deaf and hard of hearing; provided, that the commission shall expand services beyond the level of such services provided in fiscal year 1998, including, \$100,336 for the case management of children deemed eligible for such services from said commission, \$50,000 for assistive technology devices, \$525,000 for independent living services, so-called, and \$1,050,000 for interpreter and CART services, so-called; provided further, that the new positions of a systems analyst and a personnel director be funded from this item; and provided further, that amounts appropriated in items of this department that extend or expand services beyond the level of services provided in fiscal year 1998 shall not annualize above said amounts in fiscal year 2000 \$5,388,824
- 4125-0101 Notwithstanding the provisions of any general or special law to the contrary, the commission for the deaf and hard of hearing may expend revenues in an amount not to exceed \$105,000 from charges received on behalf of interpreter services and monies received from private grants, bequests, gifts or contributions; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$105,000

Office of Child Care Services.

4130-0001	For the administration of the office of child care services pursuant to section 239 of chapter 43 of the acts of 1997; provided, that the office of child care services shall issue monthly reports detailing the number and average cost of voucher and contracted child care slots funded from items 4130-3200, 4130-3300, 4130-3400, 4130-3500, 4130-3600 and 4130-3700 by category of eligibility; provided further, that said office shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance on the unduplicated number of children on waiting lists for state subsidized child care; provided further, that the office shall administer the child care resource and referral system; provided further, that nothing contained herein shall be construed as limiting the office's authority to issue variances or grant licenses or certificates on a probationary basis as provided in 102 CMR 8.00 as in effect on May 28, 1993; and provided further, that said office shall issue monthly reports listing the number of recipients by account subject to provisions of subsection (f) of section 110 of chapter 5 of the acts of 1995	\$1,979,660
4130-0002	For the administration of the Children's Trust Fund	\$943,820
4130-0005	For field operations licensing; provided, that no funds from this item may be expended for family support services; and provided further, that said office generate not less than \$673,100 to be deposited in the General Fund from licensing fees and the sale of day care lists	\$6,396,473
4130-1000	For statewide neonatal and postnatal home parenting education and home visiting programs for at-risk newborns to be administered by the children's trust fund; provided, that such services shall be made available statewide to all parents under the age of 20 years within the amount appropriated herein	\$7,800,000
4130-2998	For one-time child care quality expenditures; provided, that not more than \$700,393 shall be expended for activities to increase the supply of quality child care for infants and toddlers; provided further, that not more than \$255,140 shall be expended for resource and referral and school-age child care activities; provided further, that the commissioner of	

the office of child care services shall submit written certification to the secretary of administration and finance and the house and senate committees on ways and means that all planned expenditures and allocations from this item shall have no fiscal impact beyond fiscal year 1999; and provided further, that no funds may be expended, obligated, or transferred from this item prior to the submission of said certification \$955,533

Child Care Fund 100.0%

4130-3100 For the regional administration of child care programs and related child care activities; provided, that said activities shall include, but not be limited to, voucher management, child care provider training, resource and referral for children with disabilities in school-aged child care programs, community-based programs that provide direct services to parents, and coordination of waiting lists for state-subsidized child care; provided further, that a minimum of \$650,000 shall be expended through child care resource and referral programs for child care provider training; provided further, that not less than \$190,000 shall be expended to provide child care services for children with disabilities in school-aged child care programs; and provided further, that no funds shall be expended from this item for AA subsidiary payroll expenses, so-called \$8,623,253

Child Care Fund 50.15%

General Fund 49.85%

4130-3200 For the employment services voucher and contracted child care program; provided, that the employment services child care program shall be available for recipients of benefits provided under the program of transitional aid to families with dependent children and the absent parents of said recipients; provided further, that child care funded from this item shall be available to former recipients of transitional aid to families with dependent children who are working for up to one year after termination of their transitional aid to families benefits due to their employment; provided further, that child care slots shall be distributed geographically in a manner which provides fair and adequate access to child care for all eligible individuals; provided further, that not less than \$500,000 shall be expended for eligible

participants in the full employment program established by subsection (i) of section 110 of chapter 5 of the acts of 1995; provided further, that the office is hereby authorized to provide child care benefits to certain other former transitional aid to families with dependent children recipients who are participating in education or training in compliance with regulations promulgated by the department of transitional assistance; provided further, that all child care providers that are part of a public school system shall be required to accept from recipients child care vouchers provided through this appropriation; provided further, that \$495,000 shall be expended by the department of transitional assistance for the provision of 100 child care slots for children in the transitional aid to families with dependent children program who are in the custody and care of grandparents due to the incapacity or absence of the parents; and provided further, that the department is hereby authorized to provide child care benefits to parents currently enrolled in a job training program who are under the age of 18 and who would qualify for benefits under the provisions of chapter 118 of the General Laws but for the deeming of the grandparents' income \$91,497,215

General Fund	38.63%
Transitional Aid to Needy Families Fund	35.52%
Child Care Fund	25.85%

4130-3300 For the provision of income eligible child care slots and vouchers; provided, that not less than \$67,048,900 shall be expended for contracted child care slots for income eligible parents; provided further, that not less than \$20,000 shall be expended for the purposes of a program of after school safety child care for the children of homeless families in the town of Framingham; provided further, that up to \$64,000 shall be expended for feasibility and design activities to assess the probability of opening and operating a child care center at the Gallagher Intermodal Transportation Center, so-called; provided further, that prior to January 15, 1999, the commissioners of the office of child care services and the department of transitional assistance shall report to the house and senate committees on ways and means and the executive office of administration and finance the amount of

any projected surplus in items 4403-2000, 4403-2002, and 4403-2013 and shall issue a joint recommendation to the house and senate committees on ways and means and the executive office of administration and finance regarding the transfer of any portion of such surplus to this item; provided further, that said recommendation shall include an estimate of the number of child care slots funded by any proposed transfer, the annualized impact of any such transfer, the impact on the commonwealth's ability to meet federal financial requirements, and the effects, if any, of cost containment efforts implemented in the administration of income eligible child care programs; provided further, that nothing herein shall authorize said transfer; provided further, that prior to July 31, 1998, the commissioner of office of child care services shall report to the house and senate committees on ways and means and the executive office of administration and finance on the amount of funding from this item deemed to be non post-transitional expansion, so-called; provided further, that the annualized cost of said expansion in fiscal year 2000 shall not exceed 200 per cent of the value of said expansion in fiscal year 1999; and provided further, that not less than one-half of the expansion slots identified by said report shall be made available prior to January 1, 1999 \$120,550,602

Child Care Fund 95.0%
General Fund 5.0%

4130-3400 For the provision of child care services to the children of: (a) teenage parents attending high school and receiving transitional aid to families with dependent children benefits pursuant to subsection (i) of section 110 of chapter 5 of the acts of 1995; (b) teenage parents receiving supplemental security income payments who participate in school, education, work and training-related activities or a combination thereof and whose dependent children receive said aid; and (c) teenage parents who participate in school, education, work and training related activities or a combination thereof and who are at risk of becoming eligible for transitional aid to families with dependent children benefits; provided, that the office of child care services, in consultation with the department of transitional assistance and the department of

Chap. 194

social services, shall allocate from this item funds sufficient to ensure the priority of provision of child care services first to children of teenage parents in category (a), then category (b), and lastly, category (c); provided further, that nothing stated herein shall give rise to enforceable legal rights or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to regulations promulgated for the transitional aid to families with dependent children program; provided further, that all teenagers eligible for year-round full-time child care services shall be participating in school, education, work and training-related activities or a combination thereof for at least the minimum number of hours required by regulations promulgated for the transitional aid to families with dependent children program, whether or not such teenagers are recipients of transitional aid to families with dependent children benefits; and provided further, that not less than \$5,812,027 shall be expended for contracted child care for such teenage parents. . . . \$9,223,604

4130-3500 For the provision of trial court child care services; provided, that \$127,065 shall be expended for child care services in the Roxbury trial court; provided further, that \$152,356 shall be expended for child care services in the Springfield trial court; provided further, that \$97,301 shall be expended for child care services in the West Roxbury trial court; provided further, that \$252,000 shall be expended for child care services in the Middlesex trial court; provided further, that \$175,000 shall be expended for child care at Dorchester district court; provided further, that \$175,000 shall be expended for trial court child care in Lawrence; provided further, that \$250,000 shall be expended for child care at the Suffolk county court complex; and provided further, that not less than \$175,000 shall be expended for child care services in the Fall River trial court \$1,403,722

4130-3600 For supportive child care associated with the family stabilization program; provided, that funds from this item shall only be expended for child care costs of children with active cases at the department of social services; and provided further, that no funds shall be expended for "extended vouchers", so-called \$43,734,528

Chap. 194

	Child Care Fund	60.00%	
	General Fund	37.66%	
	Social Services Program Fund	2.34%	
4130-3700	For the provision and management of the informal child care program; provided, that not more than \$2.00 per child per hour shall be paid for such services		\$14,380,444
	General Fund	78.27%	
	Transitional Aid to Needy Families Fund	21.73%	

Massachusetts Soldiers' Home.

4180-0100	For the maintenance and operation of the Soldiers' Home in Massachusetts located in the city of Chelsea, including a specialized unit for the treatment of Alzheimer's disease patients; provided, that not less than \$31,000 shall be expended for the purposes of providing psychiatric services to the residents and patients at said soldiers' home		\$19,302,635
4180-1100	The Soldiers' Home in Massachusetts located in the city of Chelsea may expend revenues up to a maximum of \$132,000 for facility maintenance and patient care, including personnel costs; provided, that 60 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with said license plates, shall be deposited into and for the purposes of this retained revenue account of Soldiers' Home in Massachusetts; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said soldiers' home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued		\$132,000

Holyoke Soldiers' Home.

4190-0100	For the maintenance and operation of the Soldiers' Home in Holyoke, including the adult day care program; provided, that not less than \$551,800 shall be expended for the		
-----------	--	--	--

Chap. 194

purposes of converting the domiciliary unit into a 24 bed dementia unit; provided further, that not less than \$75,000 shall be expended for the establishment of an outpatient pharmacy; and provided further, that the Soldiers' Home in Holyoke is authorized to require payment for such services in the form of a co-payment annually established by the superintendent and approved by the office of health and human services applicable to each prescription dispensed. . . . \$14,157,505

4190-1100 The Soldiers' Home in Holyoke may expend revenues up to a maximum of \$88,000 for facility maintenance and patient care, including personnel costs; provided, that 40 per cent of all revenues generated pursuant to section 2 of chapter 90 of the General Laws, through the purchase of license plates with the designation VETERAN by eligible veterans of the commonwealth, upon compensating the registry of motor vehicles for the cost associated with said license plates, shall be deposited into and for the purposes of this retained revenue account of said Soldiers' Home in Holyoke; and provided further, that notwithstanding any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said soldiers' home may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system, prior appropriation continued \$88,000

Department of Youth Services.

4200-0010 For the administration of the department of youth services; provided, that the department shall submit a report to the house and senate committees on ways and means not later than December 15, 1998 detailing the caseload and cost per case estimate for all department programs funded in items 4200-0100, 4200-0200 and 4200-0300; provided further, that said estimate shall delineate said caseload and cost per case estimates in accordance with the account structures established by the aforementioned items of appropriation \$3,963,604

4200-0100 For the supervision, counseling, and other community based services provided to committed youths in non-residential

Chap. 194

	care programs of the department; provided, that the commissioner is hereby authorized to transfer up to 5 per cent of the funds appropriated herein to items 4200-0200 and 4200-0300 of section 2; provided further, that 30 days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$18,458,618
4200-0200	For pre-trial detention programs, including purchase-of-service and state-operated programs; provided, that the commissioner is hereby authorized to transfer up to 5 per cent of the funds appropriated herein to items 4200-0100 and 4200-0300 of section 2; provided further, that 30 days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$12,849,453
4200-0300	For secure facilities, including purchase-of-service and state-operated programs incidental to the operations of said facilities; provided, that the commissioner is hereby authorized to transfer up to 3 per cent of the funds appropriated herein to items 4200-0100 and 4200-0200 of section 2; provided further, that 30 days before any such transfer is made, said commissioner shall file with the secretary of administration and finance and the house and senate committees on ways and means a plan showing the amounts to be transferred and the reason for the proposed transfer	\$69,317,521
4200-9999	For the payment of charges assessed to the department of youth services for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of youth services, with the approval of the secretary of admin-	

istration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein \$848,019

Department of Transitional Assistance.

Notwithstanding the provisions of any general or special law to the contrary, items 4130-3200, 4130-3700, 4400-1000, 4400-1100, 4400-9999, 4401-1000, 4403-2000, 4403-2110 and 4403-2120 shall be charged to the Transitional Aid to Needy Families Fund according to the approximate percentage established in each such item, pursuant to the provisions of section 326 of this act.

4400-1000 For the central administration of the department, including the development and maintenance of automated data processing systems and services in support of department operations, and for the administration of department programs in local transitional assistance offices including the expenses of operating a food stamp program; provided, that \$500,000 shall be expended on a food stamp outreach program;

provided further, that during fiscal year 1999 the department shall maintain two transitional assistance offices in the city of Springfield; provided further, that all costs associated with verifying disability for all programs of the department shall be paid from this item; provided further, that associated expenses of employees whose AA subsidiary payroll costs, so-called, are paid from item 4400-1100 of section 2 shall be paid from this item; provided further, that the DD subsidiary costs, so-called, shall be paid from item 4400-9999; provided further, that the AA subsidiary payroll costs, so-called, for such employees shall not be paid from this item; provided further, that the department shall collect all out-of-court settlement restitution payments, so-called; provided further, that said restitution payments shall include, but not be limited to, installment and lump sum payments; provided further, that the department shall file quarterly reports with the house and senate committees on ways and means detailing the total amount of fraudulently obtained benefits identified by the bureau of special investigations of the department of public safety, the total value of said settlement restitution payments, actual monthly collections, and any circumstances that produce shortfalls in said collections; provided further, that notwithstanding any provision of general or special law to the contrary, unless otherwise expressly provided, federal reimbursements, other than transitional aid to needy families funds, received for the purposes of the department, including reimbursements for administrative, fringe and overhead costs, for fiscal year 1999 and prior fiscal years, shall be credited to the General Fund; provided further, that the department shall submit on a monthly basis to the house and senate committees on ways and means and the secretary of administration and finance a status report on program expenditures, savings and revenues, error rate measurements, public assistance caseloads and benefits; provided further, that said report shall comprehensively track statewide use of the emergency assistance program by eligibility category including, but not limited to, caseload, average length of use or stay, and monthly expenditures; provided further, that no funds shall be expended from this

Chap. 194

item for the compensation of unit eight employees, so-called; and provided further, that not more than \$18,084,172 of the funds appropriated in this item may be expended if the department does not establish the criteria required by the fourth paragraph of subsection (f) of section 110 of chapter 5 of the acts of 1995 and file such criteria with the house and senate committees on ways and means not later than August 15, 1998 \$73,700,709

General Fund 75.0%
Transitional Aid to Needy Families Fund 25.0%

4400-1100 For AA subsidiary payroll, so-called, of the department's caseworkers, so-called; provided, that only employees of bargaining unit eight, so-called, shall be paid from this item; and provided further, that any other expenses associated with said employees shall be paid from items 4400-1000 and 4400-9999 \$60,644,840

General Fund 75.0%
Transitional Aid to Needy Families Fund 25.0%

4400-9999 For the payment of charges assessed to the department of transitional assistance for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of transitional assistance, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are

less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein \$1,362,100

General Fund 75.0%
Transitional Aid to Needy Families Fund 25.0%

4401-1000 For a program to provide employment and training services for recipients of benefits provided under the program of transitional aid to families with dependent children and the absent parents of said recipients; provided, that certain parents who have not yet reached the age of 18 years, including those who are ineligible for transitional aid to families with dependent children, and who would qualify for benefits under the provisions of chapter 118 of the General Laws, but for the deeming of the grandparents' income, shall be allowed to participate in the employment services program; provided further, that the department may allocate funds from this item to other agencies, including community colleges in the commonwealth for the purposes of the employment services program; provided further, that no funds from this item shall be expended for child care or informal child care; provided further, that expenditures shall not exceed the amount appropriated herein; provided further, that the Massjobs Council and the department of transitional assistance shall explore all federal reimbursements relating to job training programs to augment state appropriations; provided further, that the Massjobs Council shall explore all other job training initiatives within the commonwealth to

supplement the programs funded herein; provided further, that the payments for the costs of transportation to an approved activity by means other than public transportation or private automobile shall be permitted only when transportation by public means or private automobile is not reasonably available and affordable, and shall be subject to reasonable maximums determined by the department; provided further, that \$100,000 shall be expended for the purposes of an employment services program for refugee training and employment for the recipients of said program in Boston; provided further, that funds from this item shall be expended for the 100 careers program at Roxbury community college to recruit, train, counsel, and place in employment 100 new students with one or more dependents who are receiving transitional assistance benefits and to provide workforce development in cooperation with employers; provided further, that not less than \$161,343 shall be expended for the continued administration and operation of the New Beginnings training program at Northern Essex community college to assist low income residents of the Lawrence community to further their education and find employment; provided further, that \$300,000 shall be expended for the Parent's Fair Share program operated by Spectra Management Services Corporation, of Springfield; provided further, that not less than \$45,000 shall be expended for English as a Second Language Skills Training program for DTA-TAFDC recipients in the Greater New Bedford Service Delivery Area; provided further, that the department shall establish performance measures for the programs funded from the four previous provisos; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the performance of said four programs; provided further, that \$5,250,000 shall be expended for young parent programs; provided further, that the annualized value of the programs funded in this item shall not exceed in fiscal year 2000 the amount appropriated herein; and provided further, that the department shall notify the house and senate committees on ways and means of all allocations made from this item \$27,104,727

Chap. 194

	General Fund	90.0%
	Transitional Aid to Needy Families Fund	10.0%
4401-1001	For a reserve to fund additional services for recipients of transitional aid to families with dependent children benefits; provided, that funds from this item may be expended on former recipients for up to one year after termination of their benefits due to employment or the provisions of subsection (f) of section 110 of chapter 5 of the acts of 1995; provided further, that the department may use funds from this item to fund intensive case management efforts for said recipients that may include, but not be limited to, ongoing family support, community-based referrals, domestic violence referrals, substance abuse referrals, emergency assistance, job search assistance, technical assistance and other social service referrals; provided further, that up to \$4,000,000 may be spent on community college scholarships for degree programs and for other certified post-secondary educational training programs; provided further, that up to \$2,000,000 may be obligated for mentoring programs, including up to \$250,000 for a mentoring program in Hampshire county; provided further, that funds from this item may be expended for employment and training courses, re-employment services, job retention services, structured subsidized employment services, adult basic education, graduate equivalency degree (GED) courses or English as a second language (ESL) courses for such recipients; provided further, that funds from this item may be spent on emergency work-related expenses for said recipients, including emergency transportation costs; provided further, that up to \$5,000,000 may be expended for additional transportation services, including public transportation services; provided further, that said department may oversee a system of skills assessments at a cost of up to \$2,000,000 in fiscal year 1999; provided further, that said assessments may be conducted for each recipient up to three months before the loss of eligibility for said cash assistance for recipients that do not have a high school degree or a graduate equivalency degree; provided further, that said assessments may determine reading levels, math levels, English proficiency, and work history; provided further, that	

said assessment may determine if recipients face other significant barriers to employment including, but not limited to, disabilities, child behavioral problems, substance abuse, domestic violence, or housing instability; provided further, that no funds shall be expended from this item for cash assistance; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services; provided further, that said department shall provide a status report on fiscal year 1999 expenditures to date and anticipated remaining fiscal year 1999 expenditures from this item to the house and senate committees on ways and means no later than February 1, 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized and directed to transfer any unexpended balance remaining in this item at the close of the fiscal year to the Caseload Increase Mitigation Fund, established by section 2NN of chapter 29 of the General Laws \$15,000,000

4403-2000 For a program of transitional aid to families with dependent children; provided, that notwithstanding the provisions of any general or special law to the contrary, benefits from this item shall be paid only to citizens of the United States and to noncitizens for whom federal funds may be used to provide benefits; provided further, that the need standard shall be equal to the standard in effect in fiscal year 1989; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be 2¾ per cent below the payment standard in effect in fiscal year 1995, pursuant to the provisions of the state plan required under the personal responsibility and work opportunity reconciliation act of 1996, so-called; provided further, that the department shall notify all teen parents receiving benefits from said program of the requirements found in clause 2 of subsection (i) of said section 110 of said

chapter 5; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 1998; provided further, that said children's clothing allowance shall be included in the standard of need for the month of September, 1998; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor to adult recipients otherwise eligible for transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding the provisions of section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of \$32,500,000 shall be credited to this account and may be expended

without further appropriation for the purposes of this program; provided further, that in promulgating, amending, or rescinding its regulations with respect to eligibility for, or levels of, benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary 30 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth the basis for, and text of, such proposed changes; and provided further, that notwithstanding the provision of any special or general law to the contrary, the comptroller is hereby authorized and directed to transfer any unexpected balance remaining in this item at the close of the fiscal year to the Caseload Increase Mitigation Fund, established by section 2NN of chapter 29 of the General Laws \$338,270,223

Transitional Aid to Needy Families Fund 55.0%

General Fund 45.0%

4403-2002 For a program of supplemental transitional aid to families with dependent children pursuant to the provisions of section 210 of chapter 43 of the acts of 1997; provided, that benefits under this item shall be provided only to persons who are not citizens of the United States, and for whom, pursuant to section 401, 402 or 403 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1611, 1612 or 1613, federal funds may not be used to provide benefits pursuant to chapter 118 of the General Laws, but who are qualified aliens within the meaning of section 431 of said Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. section 1641 or are otherwise permanently residing in the United States under color of law; provided further, that the number of assistance units receiving benefits funded from this item at any one time shall not exceed the number of

assistance units comprised of qualified aliens or persons permanently residing under color of law which were receiving benefits provided under item 4403-2000 of chapter 151 of the acts of 1996 on June 1, 1997, plus 640 assistance units; provided further, that notwithstanding the provisions of any general or special law, or any provisions of this act to the contrary, no benefits under this item shall be made available to illegal or undocumented aliens; provided further, that the need standard shall be equal to the standard in effect in fiscal year 1989; provided further, that the payment standard shall be equal to the need standard; provided further, that the payment standard for families who do not qualify for an exempt category of assistance under the provisions of subsection (e) of section 110 of chapter 5 of the acts of 1995 shall be $2\frac{3}{4}$ per cent below the payment standard in effect in fiscal year 1995; provided further, that the department shall notify all teenage parents receiving benefits from said program of the requirements found in clause 2 of subsection (i) of said section 110 of said chapter 5; provided further, that a \$40 per month rent allowance shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that a nonrecurring children's clothing allowance in the amount of \$150 shall be provided to each child eligible under this program in September, 1998; provided further, that said children's clothing allowance shall be included in the standard of need for the month of September, 1998; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse, nor to adult recipients otherwise eligible for supplemental transitional aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that notwithstanding the provisions of section 2 of chapter 118 of the General Laws, or any other general or special law to the contrary, the department shall render aid to pregnant women with no other eligible dependent children only if

it has been medically verified that the child is expected to be born within the month such payments are to be made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment would be categorically and financially eligible for supplemental transitional aid to families with dependent children benefits; provided further, that certain families that suffer a reduction in benefits due to a loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for such loss; provided further, that no funds from this item shall be expended by the department for child care or transportation services for the employment and training program; provided further, that no funds from this item shall be expended by the department for family reunification benefits or informal child care; provided further, that in promulgating, amending, or rescinding its regulations with respect to eligibility for, or levels of, benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; and provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary, 30 days before implementing any eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth the basis for, and text of, such proposed changes \$7,444,904

- 4403-2013 The department may expend an amount not to exceed \$32,500,000, in accordance with the provisions of items 4403-2000 of section 2 of this act, accrued from the child support payments collected pursuant to Title IV-D of the Social Security Act, for the purposes of the program of transitional aid to families with dependent children \$32,500,000
- 4403-2110 For expenses of the emergency assistance program directly attributable to rent liability; provided, that no funds shall be expended for heat or utility arrearages, so-called; provided

further, that the department may provide limited related services in the event of a disaster as defined by regulations promulgated by the department; provided further, that said services shall be defined as payments for advance rent, security deposits, sheltering, housing search, food, clothing and housing supplies; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that the department shall prepare and promulgate rules and regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section 2; provided further, that said rules and regulations shall include, but not be limited to, a year to year cross check of recipients to determine if a person has received similar benefits in the previous 36 months; provided further, that if a person has utilized emergency assistance benefits more than once within 36 months, the department is hereby authorized and directed to place said person on a protective payment schedule for the entire period during which said person is receiving said benefits; provided further, that no advance payments shall be paid in fiscal year 1999; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States and shall not be provided to illegal or undocumented aliens; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the

extent that such rights or entitlements exist pursuant to the regulations promulgated by the department or section 210 of chapter 43 of the acts of 1997; provided further, that nothing herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to regulations promulgated by the department or said section 210 of said chapter 43; provided further, that nothing in the two preceding provisos shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item; and provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized by this item \$12,424,757

General Fund 81.90%
Transitional Aid to Needy Families Fund 18.10%

4403-2119 For the provision of structured settings as provided in subsection (i) of section 110 of chapter 5 of the acts of 1995 for parents under the age of 20 who are receiving benefits under the transitional aid to families with dependent children program; provided, that \$550,000 shall be expended for teenage parent housing outreach services; and provided further, that the department shall, not later than August 27, 1998, submit to the house and senate committees on ways and means the independent evaluation of all programs for teenage parents and their children administered by the departments of transitional assistance and social services mandated by item 4403-2119 of section 2 of chapter 43 of the acts of 1997 for which the general court appropriated \$125,000 \$5,831,906

4403-2120 For certain expenses of the emergency assistance program as herein delineated: (i) contracted family shelters; (ii) transitional housing program; (iii) program to reduce homelessness in Barnstable, Dukes and Nantucket counties; (iv) residential education center for single mothers with children; (v) intake centers, so-called; (vi) hotel and motel payments on behalf of homeless families; and (vii) voucher shelters, so-called; provided, that not more than \$76,650 may be expended for the hotel and motel emergency assistance program; provided further, that no funds may be

expended for heat or utility arrearages, so-called; provided further, that in promulgating, amending, or rescinding regulations with respect to eligibility or benefits under said program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the appropriation; provided further, that the department is authorized to enter into an interagency service agreement with the division of housing and community development for a program to prevent homelessness; provided further, that not more than \$4,563,333 shall be expended for said program, including not less than \$75,000 for Just a Start Corporation; provided further, that not less than \$26,959,160 shall be expended on contracted family shelters; provided further, that of the amount authorized for said contracted family shelters, not less than \$798,483 shall be expended for the Hyannis Safe Harbor shelter, so-called; provided further, that of the amount authorized for said contracted family shelters, not less than \$310,000 shall be expended for the operation of the emergency family shelter operated by Emmaus Inc. of Haverhill; provided further, that \$474,956 shall be expended by the Louison foundation of Brockton to operate a six-family homeless shelter; provided further, that the department is directed to enter into four contracts to provide transitional housing for homeless families; provided further, that not more than \$1,280,648 shall be expended on said transitional housing program; provided further, that not less than \$300,000 shall be expended for the purpose of a program to reduce homelessness for needy families in Barnstable, Dukes and Nantucket counties as provided in section 253 of chapter 60 of the acts of 1994; provided further, that at least as many shelter spaces as were provided for homeless families during fiscal year 1998 be made available in fiscal year 1999; provided further, that the winter shelters, so-called, be operated year-round; provided further, that \$104,148 shall be expended for a furniture donation pickup van; provided further, that the department shall promulgate regulations to prevent abuse in the emergency assistance program in items 4403-2110 and 4403-2120 of section 2; provided further, that said rules and regulations shall include but not be limited to a year to

year cross check of recipients to determine if a person has received similar benefits in the previous 36 months; provided further, that if a person has utilized emergency assistance benefits more than once within 36 months, the department is hereby authorized and directed to place said person on a protective payment schedule for the entire period during which said person is receiving said benefits; provided further, that no advance payments shall be paid in fiscal year 1999; provided further, that an otherwise eligible household shall be authorized for temporary emergency shelter even if that household has been authorized to receive a rental arrearage payment within the past 12 months; provided further, that an eligible household shall be sheltered within 20 miles of their home community, unless such household requests otherwise; provided further, that if no such shelter placement is available within 20 miles because of lack of vacancies, the household size and/or composition of such a homeless family, or the concerns of the department regarding the performance and administration of a particular shelter, said household shall be placed in the closest possible appropriate shelter beyond said 20 miles; provided further, that said household shall be transferred to an appropriate shelter within 20 miles of their community at the earliest possible date, unless the household requests otherwise; provided further, that placements made beyond the 20 mile limit shall be reported on a quarterly basis to the secretary of administration and finance, the joint committee on human services and elderly affairs, and the house and senate committees on ways and means; provided further, that no emergency assistance expenditures shall be paid from this item unless explicitly authorized by this item; provided further, that benefits under this item shall be provided only to residents who are citizens of the United States or aliens lawfully admitted for permanent residence or otherwise permanently residing under color of law in the United States and shall not be provided to illegal or undocumented aliens; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file

with the house and senate committees on ways and means and with the clerks of the house of representative and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department or section 210 of chapter 43 of the acts of 1997; provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by the department or said section 210 of said chapter 43; and provided further, that nothing in the two preceding provisos shall authorize the department to alter eligibility criteria or benefit levels, except to the extent that such changes are needed to avoid a deficiency in this item . . . \$38,195,028

General Fund 82.44%
Transitional Aid to Needy Families Fund 17.56%

4404-1000 For a program of nutritional assistance in fiscal year 1999 to residents of the commonwealth who are qualified aliens within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called, and non-citizens otherwise permanently residing under color of law in the United States; provided, that such resident shall be eligible for such benefits only if such resident (1) is ineligible for federal food stamp benefits pursuant to the provisions of sections 401, 402 or 403 of such Act, (2) would be eligible for federally funded food stamps, but for his citizenship status, and (3) has resided in the commonwealth for at least 60 days; provided further, that priority in the distribution of such benefits shall be given to persons who were receiving federally funded food stamps in fiscal year 1997 but were rendered ineligible for such benefits by operation of said sections 401, 402 or 403; provided further, that the benefit levels established for such

program shall, to the extent feasible, replicate the equivalent levels in effect for the federal food stamp program as of June 30, 1997, but shall be reduced by a consistent percentage across all benefit levels to the extent necessary not to exceed the amounts appropriated herein; provided further, that such benefits may be distributed by electronic benefit transfer to the extent such distribution does not jeopardize otherwise available federal funding or impede the effective distribution of such benefits; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services, other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by said department consistent with this item; and provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or an enforceable entitlement to any services other than to the extent that such rights or entitlements exist pursuant to the regulations promulgated by said department consistent with this item \$12,800,000

4405-2000 For the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants recipients residing in rest homes, as provided in section 7A of chapter 118A of the General Laws, may be paid from this item; provided further, that the department of transitional assistance, in collaboration with the division of medical assistance, is hereby authorized to fund an optional supplement living arrangement category under the supplemental security income program that makes payments to persons living in assisted living residences certified pursuant to chapter 19D of the General Laws who meet the income and clinical eligibility criteria established by the department and said division; provided further, that said optional category of payments shall only be administered in conjunction with the medicaid group adult foster care benefit; provided further, that notwithstanding provisions of any general or special law to the contrary, persons receiving services under the provisions of subsection (a) of section 6 of chapter 354 of the acts of 1994 on June 30, 1996 shall

continue to receive said services until the implementation of said optional category of payments; provided further, that the expenses of a program to aid emergency aid to the elderly, disabled and children recipients in becoming eligible for said supplemental security income program may be paid from this item; and provided further, that said department shall submit a report on the state administration of the state supplement to the supplemental security income program in accordance with section 389 of this act \$193,849,848

4406-3000 For the homelessness program to assist individuals who are homeless or in danger of becoming homeless, including assistance to organizations which provide food, shelter, housing search, and limited related services to the homeless and indigent; provided, that the department may allocate funds to other agencies for the purposes of this program; provided further, that the department shall notify the house and senate committees on ways and means of all such allocations; provided further, that \$1,036,803 shall be expended for the health care for the homeless programs in Boston, Worcester and Springfield, including not less than \$591,512 for the Boston health care for the homeless program; provided further, that not less than \$50,820 shall be expended for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc., located in the city of Lynn; provided further, that not less than \$246,750 shall be expended for Our Fathers House in Fitchburg; provided further, that not less than \$2,207,713 shall be expended for the Massachusetts Housing and Shelter Alliance; provided further, that not less than \$692,996 shall be expended for the Middlesex Shelter in Lowell; provided further, that not less than \$88,200 shall be expended for the Boston Rescue Mission; provided further, that not less than \$285,588 shall be expended for the Market Ministries shelter in New Bedford; provided further, that not less than \$12,573,062 shall be expended for a contract with the Pine Street Inn located in the city of Boston; provided further, that not less than \$1,240,616 shall be expended for a contract with St. Francis House for a comprehensive multi-service day treatment program for the homeless in the city of Boston; provided further, that not

less than a total of \$5,878,498 shall be expended for the PIP shelter in Worcester, the Daybreak Shelter in Lawrence, the Long Island Shelter in Boston, and the Long Island Annex in Boston; provided further, that not less than \$259,875 shall be expended for the Friends of the Homeless shelter in Springfield; provided further, that \$528,734 shall be expended for the Cambridge Salvation Army; provided further, that not less than \$196,350 from this item shall be expended for a contract with ServiceNet, Inc., to operate homeless shelters in Hampshire and Franklin counties; provided further, that notwithstanding the provisions of any general or special law to the contrary, \$173,250 shall be obligated for a contract with the SHADOWS project in Natick, for the provision of shelter services to homeless women; provided further, that not less than \$655,719 shall be expended for the Quincy Interfaith Sheltering Coalition; provided further, that not less than \$42,000 shall be expended for the Samaritan Inn homeless shelter in Westfield; provided further, that not less than \$226,615 shall be expended for a shelter operated by Emmaus, Inc. of Haverhill; provided further, that not less than \$121,800 shall be expended for the Marlborough Shelter program, so-called; provided further, that \$147,000 shall be expended for the Meadows program, so-called; provided further, that \$288,750 shall be expended for the Turning Point program, so-called; provided further, that not less than \$196,916 shall be expended for a contract with the Berkshire County Chapter of the American Red Cross; provided further, that not less than \$90,000 shall be expended for a contract with the Mary E. Sargent house to provide transitional housing services to women and children; provided further, that not less than \$204,616 shall be expended for a contract with the Somerville Homeless Coalition; provided further, that not less than \$491,923 shall be expended for a contract with the Housing Assistance Corporation in Hyannis; provided further, that not less than \$138,620 shall be expended for the Project Place day services program in the city of Boston; provided further, that not less than \$42,000 shall be expended for a contract with the Hyannis Salvation Army; provided further, that not less than \$60,000 shall be

	expended for a contract with the St. Francis Samaritan house in Taunton; provided further, that not less than \$66,095 shall be expended for a contract with Mainspring House in Brockton; provided further, that an additional \$138,000 shall be expended for Open Pantry Community Services, Inc. in Springfield; and provided further, that at least as many shelter spaces as were provided for homeless families and individuals during fiscal year 1998 shall be made available in fiscal year 1999	\$31,236,143
4408-1000	For a program of cash assistance to certain residents of the commonwealth pursuant to chapter 117A of the General Laws, entitled emergency aid to the elderly, disabled and children found by the department to be eligible for such aid, pursuant to regulations promulgated by said department and subject to the limitations of appropriation therefore; provided, that benefits under this item shall only be provided to residents who are citizens of the United States or qualified aliens, so-called, or non-citizens otherwise permanently residing in the United States under color of law and shall not be provided to illegal or undocumented aliens; provided further, that the payment standard shall equal the payment standard in effect under the general relief program in fiscal year 1991; provided further, that a \$35 rent allowance, to the extent possible within the amount of this appropriation, shall be paid to all households incurring a rent or mortgage expense and not residing in public housing or subsidized housing; provided further, that the department may provide benefits to persons age 65 or older who have applied for benefits under chapter 118A of the General Laws, to persons suffering from a medically determinable impairment or combination of impairments which is expected to last for a period as determined by department regulations and which substantially reduces or eliminates the individual's capacity to support him or herself and which have been verified by a competent authority, to certain persons caring for a disabled person, to otherwise eligible participants in the vocational rehabilitation program of the Massachusetts rehabilitation commission, to otherwise eligible students under age 21 who are regularly attending a full time grade, high school, technical or vocational school	

not beyond the secondary level and to dependent children who are ineligible for benefits under both chapter 118 of the General Laws and the separate program created by section 210 of chapter 43 of the acts of 1997 and parents or other caretakers of dependent children who are ineligible under said chapter 118 and under said separate program; provided further, that no ex-offender, person over age 45 without a prior work history, or person in a residential treatment facility shall be eligible for benefits under this program unless said person otherwise meets the eligibility criteria described herein and defined by regulations of the department; provided further, that any person incarcerated in a correctional institution shall not be eligible for benefits under said program; provided further, that no funds shall be expended from this item for the payment of expenses associated with any medical review team, other disability screening process or costs associated with verifying disability for this program; provided further, that the department shall promulgate emergency regulations pursuant to chapter 30A of the General Laws to implement the changes to this program required by this act promptly and within the appropriation; provided further, that in initially implementing the program for this fiscal year, the department shall include all eligibility categories permitted herein at the payment standard in effect for the former general relief program in fiscal year 1991; provided further, that in promulgating, amending, or rescinding its regulations with respect to eligibility or benefits, including the payment standard, medical benefits, and any other benefits under this program, the department shall take into account the amounts available to it for expenditure by this item so as not to exceed the amount appropriated herein; provided further, that notwithstanding the provisions of any general or special law, or of this item, to the contrary, before implementing any eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet

projected expenses and a report setting forth such proposed changes; provided further, that the department is authorized to promulgate emergency regulations pursuant to chapter 30A of the General Laws to implement these eligibility or benefit changes or both; provided further, that nothing herein shall be construed as creating any right accruing to recipients of the former general relief program; provided further, that the secretary of health and human services shall report monthly to the house and senate committees on ways and means for the preceding month on the number of persons applying for benefits under this program, by category, age, and disability, if any, and the number of persons receiving and denied benefits under this program by category, age and disability, if any; provided further, that reimbursements collected from the social security administration on behalf of former clients of the emergency aid to the elderly, disabled and children program, or unprocessed payments from said program that are returned to the department, not to exceed an amount of \$12,500,000 shall be credited to this account and may be expended without further appropriation for the purposes of this program; and provided further, that notwithstanding any general or special law to the contrary, the funds made available herein shall be the only funds available for said programs, and the department shall not spend funds for said program in excess of the amount made available herein \$54,654,626

Department of Public Health.

4510-0100 For the operation of the department of public health; provided, that the position of assistant commissioner shall not be subject to chapter 31 of the General Laws; provided further, that \$25,000 shall be expended to provide publications on health care issues in alternative formats for the print disabled, including, but not limited to braille or large print; provided further, that funds shall be expended for the weapons related injury surveillance system; and provided further, that the comptroller shall transfer from this item to items 1599-7010, 4590-0908, 4590-0909, 4590-0910, 4590-0911, and 4590-0912 such amounts as may be required to ensure that said items do not require the appropriation of

Chap. 194

	supplemental funding during fiscal year 1999, subject to a transfer plan which the commissioner of public health shall file in advance with the house and senate committees on ways and means	\$7,953,153
4510-0103	For the payment of charges assessed to the department for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for said payments; provided further, that the department may transfer up to 3 per cent of the funds appropriated herein to items 4510-0104 and 4510-0105 in section 2; provided further, that the public health hospitals funded in items 4590-0908, 4590-0909, 4590-0910, 4590-0911 and 4590-0912 shall not be subject to the provisions stated herein; provided further, that no such transfer shall occur before May 1, 1999; provided further, that 30 days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reasons therefor; and provided further, that any such transfers shall not cause a deficiency in this item	\$736,677
4510-0104	For the administrative expenses and chargebacks of the department made pursuant to the EE subsidiary, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the EE subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for said expenses and chargebacks; provided further, that the public health hospitals funded in items 4590-0908, 4590-0909, 4590-0910, 4590-0911 and 4590-0912, the center for laboratory and communicable disease control and the state laboratory funded in item 4516-1000, the nuclear safety assessment program funded in item 4510-0615, the drug registration and monitoring program funded in item 4510-0616, and the universal immunization	

	program funded in item 4580-1000 shall not be subject to the provisions stated herein; provided further, that the department may transfer up to 3 per cent of the funds appropriated herein to items 4510-0103 and 4510-0105 in section 2; provided further, that no such transfer shall occur before May 1, 1999; provided further, that 30 days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reasons therefor; and provided further, that any such transfers shall not cause a deficiency in this item	\$1,402,584
4510-0105	For the space and energy payments made by the department pursuant to the GG subsidiary, so-called, as classified by the comptroller; provided, that all funds appropriated herein shall be scheduled in the GG subsidiary, so-called; provided further, that no funds from any other item of state appropriation available to the department shall be used for said payments; provided further, that the public health hospitals funded in items 4590-0908, 4590-0909, 4590-0910, 4590-0911 and 4590-0912, the center for laboratory and communicable disease control and the state laboratory funded in item 4516-1000, and the universal immunization program funded in item 4580-1000 shall not be subject to the provisions stated herein; provided further, that the department may transfer up to 3 per cent of the funds appropriated herein to items 4510-0103 and 4510-0104 in section 2; provided further, that no such transfer shall occur before May 1, 1999; provided further, that 30 days before any such transfer is made, said department shall file with the house and senate committees on ways and means a schedule of the amounts to be transferred and the reasons therefor; and provided further, that any such transfer shall not cause a deficiency in this item	\$3,160,693
4510-0110	For community health center services, including smoking cessation programs	\$1,104,264
	General Fund	50.12%
	Health Protection Fund	49.88%
4510-0150	For the managed care program at community health centers known as CenterCare established pursuant to section 24F of	

chapter 111 of the General Laws; provided, that the monthly number of clients enrolled in said program shall not exceed the average monthly enrollment in said program for fiscal year 1998; provided further, that the department may assist professional and nonprofit agencies dedicated to the advancement of the scope and nature of services delivered in communities and community health centers and to pursue available federal technical assistance funding; and provided further, that \$220,350 shall be expended on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under section 330(f)(1) of the United States Public Health Service Act, 42 U.S.C. 254c \$4,347,350

4510-0600 For an environmental and community health hazards program, including control of radiation and nuclear hazards, consumer products protection, food and drugs, lead poisoning prevention in accordance with chapter 482 of the acts of 1993, lead-based paint inspections in day care facilities, inspection of radiological facilities, licensing of x-ray technologists, and the administration of the division of environmental epidemiology and toxicology for the purpose of implementing certain provisions of chapter 470 of the acts of 1983, the "Right-to-Know" law, so-called; provided, that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of 100 per cent of the amounts so expended; provided further, that \$50,000 shall be obligated for a contract to provide an environmental risk assessment of the incidence of cancer in the town of Natick, including the costs of a public health nurse or epidemiologists; provided further, that the department may expend not more than \$150,000 to conduct a study on brain tumor/cancer, leukemia, non-Hodgkin lymphoma, lung and bronchus, liver and inflammatory bowel disease and Hodgkin disease in the towns of Rockland, Hingham, Weymouth and Abington; provided further, that not less than \$114,000 shall be expended on the implementation of a program to manage the disposal of low-level radioactive waste in accordance with sections 7, 8, 11, 13 and 16 of chapter 111H of the General

Laws; provided further, that no funds appropriated herein shall be expended for the purpose of siting or locating a low-level radioactive waste facility in the commonwealth; provided further, that not less than \$100,000 shall be expended for the purposes of research and prevention activities associated with lyme disease, so-called, to be conducted by the Barnstable County department of health and environment; and provided further, that up to \$100,000 shall be expended for an environmental risk assessment at the Nyanza superfund site, so-called \$3,295,089

4510-0615 The department may expend an amount not to exceed \$150,000 from assessments collected in accordance with section 5K of chapter 111 of the General Laws for services provided to monitor, survey and inspect nuclear power reactors; provided, that the department may expend revenues not to exceed \$642,852 from fees collected from licensing and inspecting users of radioactive material within the commonwealth under licenses presently issued by the nuclear regulatory commission; provided further, that said revenues may be used for the costs of both programs, including the compensation of employees; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system. \$792,852

4510-0616 For a drug registration and monitoring program; provided, that the department may expend an amount not to exceed \$529,242 from revenues collected from a fee charged to registered practitioners, including physicians, dentists, veterinarians and podiatrists, for controlled substance registration; provided further, that funds may be expended from this item for the costs of personnel; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system. \$529,242

Chap. 194

4510-0617	For environmental monitoring of the nuclear power plant in Seabrook, New Hampshire including a continuous real-time radiological monitoring system for Massachusetts cities and towns located within the emergency planning zone of said nuclear power plant; provided, that the cost of said item, including any applicable fringe benefits and indirect costs, shall be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase power from the Seabrook nuclear power plant; provided further, that for the purposes of said item, electric companies shall be defined as all persons, firms, associations and private corporations which own or operate works or distribute electricity in the commonwealth; and provided further, that the term electric companies shall not include municipalities or municipal light plants	\$87,150
4510-0710	For the operation of the division of health care quality; provided, that said division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and for protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and the mentally ill, hospitals and infirmaries, including the inspection of ambulance services	\$5,318,531
4510-0712	The department may expend an amount not to exceed \$497,942 in revenues collected from the licensure of health facilities, for program costs of the division of health care quality; provided, that the department may expend an amount not to exceed \$800,000 from revenues collected from individuals applying for emergency medical technician licensure and recertification; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenue and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor, as reported in the state accounting system. . . .	\$1,297,942
4510-0750	For the determination of need program established pursuant to section 25C of chapter 111 of the General Laws	\$142,434

Chap. 194

4510-0790	For regional emergency medical services; provided, that the regional emergency medical services councils, designated as such in accordance with 105 CMR 170.101 and the C-MED communications as of January 1, 1992, shall remain the designated councils and C-MEDs; and provided further, that not less than \$68,000 shall be made available for region I, not less than \$88,000 shall be made available for region II, not less than \$88,000 shall be made available for region III, not less than \$88,000 shall be made available for region IV, and not less than \$68,000 shall be made available for region V.	\$400,000
	Local Aid Fund	100.0%
4510-0810	For a statewide sexual assault nurse examiner program, SANE, for the care of victims of sexual assault; provided, that the program shall operate under specific protocols and by an on-call system of said nurse examiners established by the department	\$200,000
4512-0103	For acquired immune deficiency syndrome prevention and treatment; provided, that not less than \$300,000 shall be expended for the operation of a pilot program to be administered by the Springfield department of health for a comprehensive drug treatment for the prevention of AIDS; and provided further, that an additional \$750,000 shall be expended on AIDS prevention education	\$50,528,137
	General Fund	93.27%
	Health Protection Fund	6.73%
4512-0104	For a reserve for unanticipated costs associated with the HIV/AIDS drug assistance program administered by the department of public health; provided, that no funds shall be allocated or transferred to any other item, or expended from this item until the commissioner of the department of public health, the secretary of the executive office of health and human services, the state budget director, and the secretary of administration and finance certify in writing to the house and senate committees on ways and means that the amounts appropriated in item 4512-0103 are insufficient to meet the costs of said HIV/AIDS drug assistance program; provided further, that no funds shall be allocated, transferred, or expended from this item until the department submits to the secretary of administration and finance and the house and senate committees on ways and means a detailed caseload	

Chap. 194

	and cost-per-case estimate for said program; and provided further, that pilot programs established in fiscal year 1998 in support of HIV/AIDS drug assistance efforts shall not be funded from this item	\$750,000
	General Fund	98.0%
	Health Protection Fund	2.0%
4512-0110	For rental housing subsidies for the purposes of preventing admissions to acute hospitals, chronic hospitals, and nursing homes for persons with acquired immune deficiency syndrome; provided, that the department may contract for the administration of said program; provided further, that the costs of said administrative contract shall not be expended from this item; provided further, that rents payable by tenants shall be not less than 30 per cent of total household income if heat and cooking fuel are provided by the landlord and shall be not less than 25 per cent of total household income if heat and cooking fuel are not provided; provided further, that no funds shall be expended for subsidies for housing units in excess of the number of units funded on June 30, 1991; and provided further, that the department shall not enter into any new housing contracts or expend funds for such new contracts in fiscal year 1999 that would fund units in excess of the number of units funded on June 30, 1998	\$118,800
4512-0200	For the administration of the division of substance abuse services, including a program to reimburse driver alcohol education programs for services provided for court adjudicated indigent clients; provided, that not less than \$9,843,259 shall be expended for detoxification services, including not less than \$2,000,000 for detoxification beds targeted to homeless individuals; provided further, that not less than \$500,000 shall be expended for AIDS education for clients served by said program; provided further, that not less than \$615,000 shall be expended for the Celeste House; provided further, that not less than \$66,000 shall be expended for the "CASPAR" emergency service center, so-called in Cambridge; provided further, that not less than \$650,350 shall be expended for a contract with Sobriety Treatment, Education and Prevention, Inc., doing business	

as STEP, Inc.; provided further, that not less than \$350,000 shall be allocated to provide three pilot child care programs, one family day care system model and two on-site traveling models for the children of parents in ambulatory drug and alcohol treatment; provided further, that not less than \$500,000 shall be expended for the treatment and detoxification of intravenous drug users who test positive for HIV, so-called; provided further, that not less than \$200,000 shall be expended for a residential program to provide alcohol and drug treatment services to Hispanic women in the commonwealth; provided further, that not less than \$250,000 shall be expended for a system of case management and central intake for substance abuse treatment services in the city of Boston; provided further, that not less than \$80,000 shall be expended for substance abuse consultant services for the department of social services; provided further, that the commissioner of the department of public health is hereby authorized and directed to enter into an interagency service agreement with the department of social services to provide said consulting services; provided further, that \$240,000 shall be expended for additional detoxification services; provided further that \$400,000 shall be expended for an acute treatment program for detoxification and stabilization services for civilly committed women; provided further, that not less than \$250,000 shall be expended for the establishment of a new 5 bed treatment program for detoxification and stabilization services for civilly committed women in central or western Massachusetts; provided further, that not less than \$60,000 shall be allocated for Bay Colony Health Services, Inc.; provided further, that not less than \$2,000,000 shall be allocated to expand the purchase of long-term residential treatment beds operated by agencies contracting with the department of public health as of January 1, 1996; provided further, that not less than \$2,000,000 shall be expended for the purchase of outpatient treatment services to high risk populations in agencies contracted with the department of public health as of January 1, 1996; provided further, that not less than \$72,000 of said allocation shall be expended for the Tynan Community Center Adolescent Wellness

program in the city of Boston; provided further, that not less than \$60,000 shall be expended for a contract with Gavin Foundation to provide a pilot total immersion program in conjunction with the probation department of the South Boston division of the district court department of the trial court; provided further, that not less than \$60,000 shall be expended for the Hingham district court for a pilot total immersion program; provided further, that not less than \$50,000 shall be expended for the establishment of a training program for a statewide total immersion program; provided further, that Gavin Foundation shall be contracted to provide immersion programs stated herein; provided further, that said study shall identify and quantify the demand for such alternative services and programs, the options available for meeting such demand and the annualized cost therefor; provided further, that said study shall be submitted to the house and senate committees on ways and means and the joint committee on criminal justice not later than February 1, 1999; provided further, that the department shall add through the competitive process two additional so-called half-way houses to the residential programs funded in order to expand the supply of available beds; provided further, that not less than \$70,000 shall be expended for a department of public health certified New Bedford batterer intervention program; provided further, that not less than \$60,000 shall be expended for the McLaughlin House in Charlestown; provided further, that not less than \$200,000 shall be allocated from this item to Beacon Substance Abuse Programs for programs including but not limited to alcohol, drug and tobacco prevention; provided further, that not less than \$500,000 shall be expended for drug treatment and associated services to Children in Need of Services or CHINS, so-called; provided further, that the department shall file with the house and senate committees on ways and means not later than September 1, 1998 a list of substance abuse treatment facilities providing services for CHINS cases, so-called; provided further, that \$310,000 shall be expended for an adolescent residential facility for substance abuse and rehabilitation services in the South Boston section of the city of Boston; provided further, that

the department shall study and file a report with the house and senate committees on ways and means on the impact of all specified expenditures within the substance abuse account not later than January 1, 2000; provided further, that no additional methadone clinic or facility dispensing methadone shall be located in any city or town in which there is an existing such clinic or facility, without first receiving the approval of the city council and mayor in a city, the city council in a Plan E city or the board of selectmen or town council in a town; and provided further, that services funded from this item shall include residential options, intervention programs, and prevention programs for ex-offenders and youth at risk of homelessness \$43,166,977

General Fund 83.23%

Health Protection Fund 16.77%

4512-0225 The department of public health is hereby authorized to expend for a compulsive gamblers' treatment program an amount not to exceed \$1,000,000 from unclaimed prize money held in the state lottery fund for more than one year from the date of the drawing when said unclaimed prize money was won, and from the proceeds of a multi-jurisdictional lottery game pursuant to subsection (e) of section 24A of chapter 10 of the General Laws; provided, that the state comptroller is hereby authorized and directed to transfer said amount to the general fund. \$1,000,000

4512-0500 For dental health services \$1,311,765

4513-1000 For the operation of the division of family health services, including a program of maternal and child health in addition to any federal funds received for this program; provided, that not less than \$250,000 shall be expended for community-based prenatal outreach and education programs targeted to communities with severe infant mortality issues; provided further, that \$200,000 shall be expended for the "women enjoying longer lives" program, so-called; provided further, that not less than \$35,000 shall be expended for the Framingham teen parenting program; provided further, that not less than \$1,946,000 shall be expended for rape prevention and victim services; provided further, that not less than \$4,263,000 shall be expended for family planning

services provided by agencies certified as comprehensive family planning agencies; provided further, that not less than \$1,290,063 shall be expended for school and community-based teen health programs; provided further, that not less than \$200,000 shall be provided to the Northeastern University conflict resolution program; provided further, that not less than \$100,000 shall be expended for Latinas y Ninos to provide a full-time child advocate-parent educator specialist to attend to the needs of Latino women in recovery with a focus on pregnant women, new parents, and mothers recently reunified with children; and provided further, that not less than \$750,000 shall be expended for state-wide programs that provide suicide prevention outreach to gay and lesbian youth \$12,521,896

General Fund 75.18%

Health Protection Fund 24.82%

4513-1001 For certified batterer intervention programs to assist indigent batterers and their families; provided, that referred batterers are required to perform a minimum of 40 hours of community service; provided further, that the department shall, on behalf of the governor's commission on domestic violence, conduct a program evaluation to identify the capacity of said programs to comply with certification standards and to effectively meet the safety needs of the victims and children of batterers; provided further, that said department shall submit a report of the results of said evaluation to said commission not later than November 1, 1998; provided further, that not less than \$79,200 shall be expended for the North Quabbin domestic violence prevention program; and provided further, that \$35,000 shall be expended from this item for the men overcoming violence (MOVE) program \$414,200

4513-1002 For women, infants, and children's (WIC) nutrition services in addition to funds received under the federal nutrition program; provided, that all new WIC cases, in excess of fiscal year 1991 caseload levels, shall be served in accordance with priority categories one through seven, as defined by the state WIC program; provided further, that within 30 days of the effective date of this act, the department shall report to the house and senate committees

	on ways and means the total number of cases which can be supported with funds from this item without incurring a deficiency; provided further, that the department shall report quarterly to the house and senate committees on ways and means the total number of clients served per month and the total food voucher expenditures per month; and provided further, that not less than \$702,000 shall be obligated for failure to thrive programs	\$14,332,221
	General Fund	87.03%
	Health Protection Fund	12.97%
4513-1005	For the healthy start program to provide medical care and assistance to pregnant women and infants residing in the commonwealth pursuant to section 24D of chapter 111 of the General Laws; provided, that pursuant to an interagency agreement established with the division of medical assistance, the department of public health shall determine the presumptive eligibility of low-income pregnant women for services available under Title XIX and chapter 118E of the General Laws	\$6,509,420
	General Fund	65.34%
	Health Protection Fund	34.66%
4513-1010	The department of public health is hereby authorized to expend an amount not to exceed \$3,700,050 generated from revenues received from the collection of federal financial participation for early intervention services delivered to medicaid-eligible children by developmental educators and professionals in related disciplines; provided, that nothing herein shall give rise to enforceable legal rights to any such services or an enforceable entitlement to the early intervention services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; and provided further, that said revenue may be used to pay for current and prior year claims	\$3,700,050
4513-1012	The department of public health may expend an amount not to exceed \$22,800,000 from revenues received from the federal cost-containment initiatives, including, but not limited to, infant formula rebates and northeast dairy compact reimbursements, for the purpose of increasing the caseload of the WIC program	\$22,800,000

Chap. 194

4513-1020	For the early intervention program; provided, that the department shall report quarterly to the house and senate committees on ways and means the total number of units of service purchased and the total expenditures for said units of service paid by the department, the division of medical assistance, and by private payers for early intervention services for each of the following units: home visit, center-based individual, child focused group, parent focused group, screening and assessment; provided further, that the department shall fund not less than 39 full time equivalent employees for the early intervention program; provided further, that the department shall make all reasonable efforts to secure third party and medicaid reimbursements for the early intervention services funded herein; provided further, that no claim for reimbursement made on behalf of an uninsured person shall be paid from this item until said program receives notice of a denial of eligibility for the MassHealth program from the division of medical assistance; and provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement to the early intervention services funded herein	\$14,947,274
	General Fund	75.18%
	Health Protection Fund	24.82%
4513-1111	For an osteoporosis education and prevention program; provided, that the program shall include, but not be limited to: (1) development or identification of educational material to promote public awareness of the cause of osteoporosis, options for prevention, the value of early detection and possible treatments, including their benefits and risks, to be made available to consumers, particularly targeted to high risk groups; (2) development or identification of professional education programs for health care providers; and (3) development and maintenance of a list of current providers of specialized services for the prevention and treatment of osteoporosis	\$500,000
	General Fund	64.61%
	Health Protection Fund	35.39%
4513-1112	For a prostate cancer prevention, education, and treatment program	\$1,500,772

Chap. 194

4516-0263	The department of public health is hereby authorized to expend an amount not to exceed \$1,440,400 in revenues from various blood lead testing fees collected from insurers and individuals, for the purpose of conducting such tests; provided, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system	\$1,440,400
4516-1000	For the administration of the center for laboratory and communicable disease control, including the division of communicable venereal diseases, the division of tuberculosis control, and the state laboratory institute; provided, that the department shall give priority to the analysis of samples used in prosecution of controlled substances offenses; provided further, that not less than \$263,244 shall be expended for the maintenance of the statewide rabies control program coordinated by the department of public health providing assistance to cities, towns, and the public, and for the interagency collaboration through the rabies advisory committee, the 24-hour epidemiological and clinical consultation for rabies exposures, the rapid laboratory diagnostic services, and for the continuation of the raccoon rabies vaccine field trial on Cape Cod operated through a contract with Tufts University School of Veterinary Medicine in collaboration with the federal Centers for Disease Control and Prevention; provided further, that an additional \$50,000 shall be expended for the Tufts Veterinary School for the continuation of the rabies baiting program, so-called, on Cape Cod; provided further, that funds shall be expended for an eastern encephalitis testing program and for tuberculosis testing and treatment services; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein	\$11,159,874

Chap. 194

- 4516-1003 For the purchase of equipment for the drug laboratory at the state laboratory institute; provided, that all funds appropriated herein shall be scheduled in the KK subsidiary, so-called \$731,074
Drug Analysis Fund 100.0%
- 4518-0100 For the health statistics program, the operation of a cancer registry and occupational lung disease registry \$1,121,638
General Fund 64.25%
Health Protection Fund 35.75%
- 4518-0200 The department is hereby authorized to expend an amount not to exceed \$242,500 generated by fees collected from the following services: amendments of vital records by the registrar of vital records and statistics, all requests for vital records not issued in person at the offices of the registry, and research requests performed by registry staff at the registry of vital records; provided, that revenues so collected may be used for all program costs, including the compensation of employees; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$242,500
- 4530-9000 For teenage pregnancy prevention services; provided, that applications for such funds shall be administered through the department upon receipt and approval of coordinated community service plans to be evaluated in accordance with guidelines issued by the department; provided further, that portions of said grants may be used for state agency purchases of designated services identified by said community service plans; provided further, that not less than \$175,000 shall be expended for the Berkshire Coalition to Prevent Teen Pregnancy program in Berkshire County; and provided further, that \$100,000 shall be expended for teen pregnancy prevention services and associated costs in the town of Orange \$4,381,542
- 4570-1500 For an early breast cancer detection program, mammographies for the uninsured, breast cancer research, and a breast cancer

detection public awareness program; provided, that not less than \$1,500,000 shall be expended for the purposes of a scientific research grant program to investigate potential environmental factors that contribute to breast cancer in "areas of unique opportunity"; provided further, that not less than \$2,750,000 shall be expended for a breast cancer research grant program to support innovative research by investigators who are in the formative stages of their careers; provided further, that the department shall name one of said research grants the "Suzanne Sheats Breast Cancer Research Fellowship"; provided further, that said research grants shall be awarded to investigators, post-doctoral fellows and assistant professors who are within ten years after completion of their highest degree or within ten years after completion of clinical training; provided further, that members of any selection review committee for the breast cancer research grant program shall be subject to chapter 268A of the General Laws and shall not participate in the review or recommendation of an application filed by an organization with which they are affiliated; provided further, that such members may participate in the review and recommendations of applications filed by organizations with which they are not affiliated; provided further, that \$250,000 shall be expended for research grants for experienced researchers, subject to the receipt of matching funds from public or private sources; provided further, that \$1,000,000 shall be expended for the purposes of an early breast cancer detection and education program for uninsured women in identified high-risk communities with increased rates of breast cancer, in order to provide outreach, access, screening and training for early detection and treatment; and provided further, that the department shall submit to the house and senate committees on ways and means a detailed report delineating the amounts allocated to such high risk communities and the specific purposes of such allocation \$8,700,000

General Fund	94.19%
Health Protection Fund	5.81%

4580-1000 For the universal immunization program; provided, that an amount not to exceed \$375,000 shall be made available for the provision of hepatitis B vaccine and vaccination series

for public employees at risk of occupational exposure to infection; provided further, that no funds appropriated herein shall be expended for administrative or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that not less than \$100,000 shall be expended for a hepatitis C program to raise public awareness and provide health care provider education, including dissemination of materials on identification, reporting, and counseling to public health, medical and other health care professionals; and provided further, that space rental expenditures from this item in fiscal year 1999 shall not exceed the cost of said expenditures in fiscal year 1996 \$15,616,805

4580-1230 For medical respite services provided by the Boston health care for the homeless program established pursuant to clause (iv) of section 24F of chapter 111 of the General Laws \$300,000

4590-0300 For the smoking prevention and cessation program established pursuant to chapter 254 of the acts of 1992; provided, that not less than \$4,314,662 shall be allocated from this item to the executive office of public safety to administer a discretionary grant program for city and town drug awareness and resistance education programs, to be known as D.A.R.E. programs, which shall include information about the health risks of cigarette smoking and shall include the participation of local and state police officers, subject to the supervision of the department of public health; provided further, that the salary of the statewide D.A.R.E. coordinator shall be paid from said allocations; provided further, that priority shall be given to funding programs in communities with high smoking rates among women; provided further, that not less than \$12,081 of said \$4,314,662 shall be expended for the "Here's Looking at You 2000" and "Pals for Wellness" drug education programs, so-called, in the town of Cohasset; provided further, that not less than \$13,806,919 shall be allocated from this item to the department of education for grants to cities, towns and regional school districts for comprehensive health education programs, including education on smoking prevention; provided further, that any funds distributed under this item shall be deposited with the treasurer of any such city, town or regional school district, held in a separate account and

expended without further appropriation by the school committee; provided further, that not less than \$5,177,595 shall be expended from this item for a school health service program, including enhanced school and health centers; provided further, that programs funded in this item shall include an educational component and campaign on smokeless tobacco; provided further, that the department of public health and the department of education shall jointly establish standards and criteria for said school health service programs; provided further, that not less than \$1,605,000 shall be expended for tobacco control coalitions; provided further, that not less than \$215,733 shall be expended for a discretionary grant program available to nonprofit organizations operating satellite programs which provide outreach services to teenagers involving substance abuse prevention, health programs and community service in the context of recreation and youth development; provided further, that not less than \$1,078,666 shall be expended for the student awareness of fire education program (S.A.F.E.); provided further, that said amount shall be allocated to the executive office of public safety to administer a discretionary grant program for city and town student awareness of fire education programs, which shall include information about the fire risks caused by smoking; provided further, that no funds shall be expended from this item for an interagency service agreement with the department of revenue; provided further, that no funds appropriated herein shall be expended for administrative, space leasing or energy expenses of the department; provided further, that not less than \$400,000 shall be allocated from this item to the Berkshire County Area Health Education Center, Inc. for programs including but not limited to alcohol, drug and tobacco prevention; and provided further, that not less than \$100,000 shall be expended for a program to raise public awareness and provide health care provider education on colorectal cancer, including dissemination of materials on preventing and screening said disease and cancer registry reporting \$56,021,775

Health Protection Fund 100.0%

4590-0906 For the children's medical security plan to provide primary and

preventive health services for uninsured children from birth through age 18; provided, that the department shall pre-screen enrollees and applicants for medicaid eligibility; provided further, that no applicant shall be enrolled in said program until said program receives notice of a denial of eligibility for the MassHealth program from the division of medical assistance; provided further, that the MassHealth benefit request shall be used as a joint application to determine the eligibility for both MassHealth and the children's medical security plan; provided further, that no funds shall be expended from this item for expenses incurred in the prior fiscal year; provided further, that the department shall maximize federal reimbursement for state expenditure made on behalf of said children; provided further, that the department shall close enrollment or promulgate regulations that adjust eligibility, benefits and other requirements to limit expenditures to the amount appropriated herein; provided further, that the department shall negotiate with the vendor of said program to ensure that rates paid for the administration of the program do not exceed such rates as are necessary to meet only those costs which must be incurred for an economically and efficiently operated program; provided further, that children made ineligible for said program with family incomes below 200 per cent of poverty after July 1, 1998, pursuant to the provisions of chapter 170 of the acts of 1997, shall remain eligible for the children's medical security plan until the division of medical assistance completes the eligibility determination and transfer of said children to programs administered by said division; provided further, that said extended eligibility period shall terminate not later than September 30, 1998; provided further, that any deficiency in this item resulting from the continued enrollment of said ineligible children between said July 1, 1998 and said September 30, 1998 shall be the financial responsibility of said division; provided further, that, subject to 30 days prior notice filed by the department with said division, the secretary of administration and finance, the comptroller and the house and senate committees on ways and means, the amount of any such deficiency specified in said notice shall

be transferred to this item from item 4000-0860 of section 2 of this act; provided further, that said notice shall include, but not be limited to, the number of children with family incomes under 200 per cent of the federal poverty level; provided further, that the department shall redetermine MassHealth eligibility of all children enrolled in said plan as of July 1, 1998; provided further, that failure of the department to complete said eligibility redeterminations shall result in the termination of eligibility for said plan; and provided further, that the department shall submit a report not later than September 30, 1998 to the secretary of administration and finance and the house and senate committees on ways and means detailing the number of children whose benefits were terminated as a result of the department's failure to complete aid eligibility redeterminations \$13,218,248

General Fund 76.62%

Children's and Senior's Health Care

Assistance Fund 23.38%

4590-0908 For the maintenance and operation of the hospital bureau, including the consolidated pharmacy unit, so-called; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means; and provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein \$4,457,234

4590-0909 For the maintenance and operation of the Tewksbury state hospital; provided, that all revenue generated by said hospital shall be credited to the general fund; provided further, that said hospital shall not be used to house county, state or other prisoners; provided further, that the department shall take no action to reduce or realign the client

population and services at the Tewksbury state hospital unless such action results in alternative service delivery in an appropriate and cost-effective method of care; provided further, that staffing configurations at said hospital shall be consistent with said client population and service realignment; provided further, that not less than \$25,000 shall be expended for an adult day service program; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that not less than \$15,000 shall be paid for chaplain services at Tewksbury state hospital; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means \$35,926,298

- 4590-0910 For the maintenance and operation of the Massachusetts hospital school; provided, that all revenue generated by said school shall be credited to the general fund; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means \$11,385,413

4590-0911 For the maintenance and operation of the Lemuel Shattuck hospital; provided, that all revenue generated by said hospital

shall be credited to the general fund; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means; and provided further, that reimbursements received for medical services provided at the Lemuel Shattuck hospital to inmates of county correctional facilities not managed by private health care vendors shall be credited to item 4590-0903 of section 2B \$39,461,538

4590-0912 The department is hereby authorized to expend an amount not to exceed \$11,696,065 from reimbursements collected for western Massachusetts hospital services, subject to the approval of the commissioner of public health; provided, that such revenues may be expended for the purpose of hospital related costs, including personnel, capital expenditures, and motor vehicle replacement; provided further, that all revenues expended shall be pursuant to schedules submitted to the secretary of administration and finance and the house and senate committees on ways and means; provided further, that notwithstanding the provisions of any general or special law to the contrary, the western Massachusetts hospital shall be eligible to receive and retain full reimbursement from the medical assistance program of the division of medical assistance; provided further, that notwithstanding the provisions of any general or special law to the contrary, said western Massachusetts hospital shall reimburse the general fund for a portion of employee benefit expenses, according to a schedule submitted by the commissioner of public health and approved by the secretary receipt of retained revenues and related expenditures, the

department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that no funds appropriated herein shall be expended for administrative, space or energy expenses of the department not directly related to personnel or programs funded herein; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means \$11,696,065

Department of Social Services

Notwithstanding the provisions of any general or special law to the contrary, the department of social services shall report monthly to the house and senate committees on ways and means and the secretary of administration and finance the following: (i) the current social worker caseloads by type of case and level of social worker assigned to cases; (ii) the amount expended on permanency services; provided, that said report shall include the total number of children with the goal of adoption and guardianship by region, the number of new cases with the goal of adoption and guardianship by region and the number of adoptions finalized by region; (iii) the amount expended on group care services; provided, that said report shall detail separately, monthly expenditures and number of children served in commonworks, so-called, authorized, and contracted group care placements; (iv) the amount expended for purchased services from item 4800-0018 of this act; provided, that said report shall detail monthly expenditures, number of families served, and average cost per individual or family by category of purchased service so provided; and (v) case load ratio of each individual social worker with a caseload ratio in excess of the contractual ratio of 18 to 1, the office in which they work and the total number of said social workers.

Notwithstanding the provisions of any general or special law to the contrary, the department of social services shall report quarterly to the house and senate committees on ways and means and the secretary of administration and finance the amount expended on women-at-risk services; provided, that said report shall include the number of service units by category, utilization by category, and cost by category.

Chap. 194

Notwithstanding the provisions of any general or special law to the contrary, the department of social services shall not authorize purchased social services at a level that will cause expenditures to exceed appropriations; provided, that social services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year.

- 4800-0014 For costs of the revenue management contract, so-called;
provided, that the costs of said contract shall be funded
entirely from this item and from no other source \$3,400,000
General Fund 60.0%
Social Services Program Fund 40.0%
- 4800-0015 For central and area office administration; provided, that
associated expenses of employees whose AA subsidiary
costs, so-called, are paid from items 4800-1100 and
4800-1101 shall be paid from this item; provided further,
that no funds shall be expended from this item for the
compensation of unit eight employees, so-called; provided
further, that the department shall maintain a sufficient
number of registered nurses to provide medical case
management for medically involved children in foster care;
provided further, that an area office shall be maintained in
the Beverly area; provided further, that the department shall
not place a child or adolescent referred by or discharged
from the care of the department of mental health until said
latter department forwards an assessment and recommenda-
tion as to whether the child or adolescent may be appropri-
ately placed in foster care or, if due to severe emotional
disturbance, is only appropriate for group care; provided
further, that the department, in consultation with the
department of mental health, shall establish guidelines to
assist said latter department in making such assessments and
recommendations; provided further, that not more than
\$100,000 shall be expended from this item for the costs of
attaining licensure as a licensed social worker associate for
those social workers whose date of employment is prior to
July 1, 1997 and who are not licensed by the board of
registration of social workers; provided further, that said
expenditures shall only be made pursuant to section 564 of
chapter 151 of the acts of 1996, to the extent that the
provisions of said section do not violate existing collective
bargaining agreements; provided further, that no funds shall

be expended for the costs of attaining said licensure prior to submission of the staffing plan, so-called, required by said section 564; provided further, that social workers who have received financial assistance from the department for obtaining said license must remain with the department for such reasonable minimum duration as established by the department or refund part or all of said financial assistance; provided further, that said costs of attaining licensure shall be funded solely from this item; and provided further, that unless otherwise authorized, all funds including federal reimbursements received by the department shall be credited to the general fund \$46,570,759

General Fund 86.80%

Social Services Program Fund 13.20%

4800-0018 For the family stabilization, unification and reunification programs for non-placement families, families experiencing instability and families whose children are expected to return home following placement, including, but not limited to, shelter services, substance abuse treatment, respite care, family reunification networks, and not less than \$2,613,654 for school and community-based young parent programs, parent aides, and education and counseling services; provided, that the department shall pursue the establishment of public/private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided further, that not less than \$30,000 shall be expended for a contract with big brothers and sisters of Cape Cod and the islands; provided further, that not less than \$69,193 shall be expended for the school age parenting project at Framingham high school; provided further, that not less than \$1,500,000 shall be expended for intensive and expanded parent aid and other support services for families requiring such services for family preservation due to acute conditions; provided further, that not less than \$35,000 shall be expended by the Framingham office of the department of social services for the metro-west campership program operated by the Ashland youth advisory board in partnership with said department; provided further, that \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional Housing

Program, so-called, of Lynn; provided further, that the department shall expend a sum of not less than \$40,000 in region 1 for a community-based family unification counseling program to prevent juvenile delinquency; provided further, that the department shall pursue the establishment of public/private partnership agreements established for family unification and reunification services funded from sources other than the commonwealth; provided further, that not less than \$250,000 shall be expended for a contract for an integrated family services team in region 6; provided further, that not less than \$150,000 shall be expended for a contract with Julie's family learning program in South Boston; provided further, that not less than \$298,000 shall be expended for alternative schools for students aged 14 to 16, inclusive, who are placed before the court on children in need of services petitions (CHINS) in region 6; provided further, that not less than \$15,000 shall be expended for a contract with Child and Family Service of Cape Cod for the Court Diversion Program; provided further, the department shall expend \$110,000 to establish a pilot feasibility study by providing that not less than \$75,000 shall be expended for Latinas y Ninos and Casa Esperanza to explore family stabilization and reunification through expanded economic and training opportunities and that \$35,000 shall be expended for contracted services to be provided to the same for programmatic and capital development; and provided further, that not less than \$100,000 be expended at the direction of the Cape and Islands district attorney for the Cape and Islands Children's Cove \$37,259,591

General Fund	70.0%
Social Services Program Fund	30.0%

4800-0025 For foster care review services \$2,149,388

4800-0031 For permanency, adoption, and foster care services, including foster care, adoption, and guardianship subsidies, services to foster families, and reimbursements to foster parents for extraordinary expenses incurred; provided, that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care; provided further, that the department shall assess all children in its care for longer

Chap. 194

than 12 months for the appropriateness of adoption; provided further, that the department shall maintain a central registry and tracking system to monitor the progress of such children in the adoption process; provided further, that the department may contract with community-based agencies for the purpose of providing adoption and special needs adoption services; provided further, that the department shall establish a schedule of fees for services which shall vary with the ability of the recipient's legal family to pay; provided further, that said fees shall be imposed regardless of whether a placement is voluntary or results from an order of a court of competent jurisdiction; provided further, that no fees shall be charged to individuals and families with incomes at or below 150 per cent of the federal poverty level; provided further, that the foster care daily rate paid for subsidies in fiscal year 1999 shall be equal to the daily rate paid in fiscal year 1998, except those rate increases made pursuant to the tiered reimbursement system, so-called, established pursuant to section 566 of chapter 151 of the acts of 1996; and provided further, that the department shall expend not less than \$3,200,000 for the purchase of special needs adoption contracts located at community-based agencies \$148,024,978

General Fund 87.55%

Social Services Program Fund 12.45%

4800-0036 For a sexual abuse intervention network (SAIN) program to be administered in conjunction with the district attorneys; provided further, that each district attorney shall receive not less than the amount it received in fiscal year 1998 for the Sexual Abuse Intervention Program \$695,783

Social Services Program Fund 100.0%

4800-0041 For group care services; provided, that the department shall establish a schedule of fees for services which shall vary with the ability of the recipient's legal family to pay; provided further, that said fees shall be imposed regardless of whether the placement is voluntary or results from an order of a court of competent jurisdiction; provided further, that no fees shall be charged to individuals and families with incomes at or below 150 per cent of the federal poverty level; provided further, that unless otherwise authorized to

Chap. 194

	be expended, any federal reimbursements received for this purpose shall be credited to the general fund; and provided further, that the department shall pursue the establishment of a managed care network for the commonworks program . . .	\$114,527,361
	General Fund	72.0%
	Social Services Program Fund	28.0%
4800-0050	For the operation of the New Chardon street home for women located in the city of Boston	\$773,368
4800-0151	For a program to provide alternative overnight non-secure placements for status offenders and nonviolent delinquent youth up to the age of 17 in order to prevent the inappropriate use of juvenile cells in police stations for such offenders, in compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended; provided, that the programs which provide such alternative non-secure placement collaborate with the county sheriff's office to provide referrals of said offenders and delinquent youth to any programs within the sheriff's office designed to positively influence youth or reduce, if not altogether eliminate, juvenile crime	\$767,320
4800-1100	For the AA subsidiary costs, so-called, of the department's social workers, so-called; provided, that only employees of bargaining unit eight, so called, as identified in the Massachusetts personnel administrative reporting and information system, so-called, shall be paid from this item; provided further, that the department is hereby authorized and directed to provide the house and senate committees on ways and means with a cost analysis of attaining caseload ratios in accordance with the Governor's Special Commission on Foster Care; provided further, that said report shall be filed with said committees not later than September 1, 1998; and provided further, that any other payroll or administrative expenses associated with the management or support of said employees shall be paid from item 4800-0015	\$84,195,936
	General Fund	95.0%
	Social Services Program Fund	5.0%
4800-1101	For social worker caseload mitigation; provided, that funds from this item shall be expended for the AA subsidiary	

Chap. 194

	payroll costs, so-called, of new social workers for the explicit purpose of mitigating social worker caseloads in those area offices furthest above the statewide weighted caseload standard, so-called; provided further, that the annualized value of this item shall not exceed in fiscal year 2000 the amount appropriated herein; and provided further, that no funds from this item shall be expended for any purpose not specifically referenced herein	\$1,944,329
4800-1200	For partnership agencies to provide protective services; provided, that the funds appropriated herein may be expended on contracts serving minority and mentally retarded or handicapped clients; and provided further, that all expenditures from this item shall be made from the MM subsidiary, so-called	\$3,018,368
	General Fund	80.0%
	Social Services Program Fund	20.0%
4800-1400	For women-at-risk shelters and services, including supervised visitation programs; provided, that the department shall pursue the establishment of public/private partnership agreements established for family stabilization services funded from sources other than the commonwealth; provided further, that not less than \$416,850 shall be expended for a contract with the YWCA battered women's shelter in Springfield; provided further, that not less than \$450,000 shall be expended for visitation centers receiving funds from this item in fiscal year 1998; provided further, that \$442,500 shall be expended for the establishment of additional visitation centers; provided further, that more than one visitation center may be funded in Middlesex County; provided further, that not less than \$10,000 shall be expended for the Melrose alliance against violence; provided further, that not less than \$50,000 shall be expended for Children's Supervised Visitations, Inc. of Framingham; provided further, that not less than \$65,205 shall be expended for the North Quabbin Domestic Violence Prevention Program; provided further, that not less than \$95,000 shall be expended for a contract with Sylvia's Haven at Devens to provide transitional housing to pregnant and parenting women and girls; provided further, that not	

Chap. 194

	less than \$630,000 shall be used to enhance services at domestic violence shelters and counseling sites for children who have witnessed domestic violence; provided further, that \$110,700 shall be expended for the New England Learning Center for Women in Transition; and provided further, that not more than \$270,000 shall be expended for the purposes of improving the ability of the department to identify those victims of domestic violence who may be in need of emergency service from said department	\$13,604,303
	Social Services Program Fund	100.0%
4800-1500	For domestic violence prevention specialists in the department's area offices; provided, that expenditures from this item shall not exceed the amount appropriated herein	\$541,911
4800-1997	For a reserve to improve the quality of services provided by the department to children in the care of the commonwealth, including, but not limited to, an enhanced program for recruiting and retaining foster families, including but not limited to, the use of tiered reimbursement, so-called, to promote the placement of children with special medical and social needs who would otherwise be placed in structured group care facilities and the coordination of services provided by the department and the departments of public health, education, transitional assistance, mental health and mental retardation, and the juvenile courts; provided, that not more than \$1,391,429 shall be obligated for the costs of consolidated foster care and adoption recruitment units to allow for targeted recruitment, including the need for cultural and ethnic diversity; provided further, that such units shall recruit, screen, license, and provide Massachusetts approaches to partnership in parenting training for all foster and pre-adoptive families; provided further, that not more than \$175,000 shall be expended for the purchase of office equipment; provided further, that not more than \$250,000 shall be expended for foster care parenting and adoption recruitment campaign; provided further, that not more than \$8,000,000 shall be obligated for the purpose of developing a tiered reimbursement system for foster care pursuant to section 566 of chapter 151 of the acts of 1996; provided further, that the commissioner is directed to provide quarterly reports to the joint committee on health	

and human services and elderly affairs and to the house and senate committees on ways and means detailing the total number of additional foster care placements made during fiscal year 1999 as a result of enhanced recruitment activities; provided further, that said report shall include a separate section detailing the number of additional placements for children with special medical, psychological or social needs that have resulted from said initiatives, and any reduction in group care placements for children with such needs that have resulted from these initiatives; provided further, that the department is authorized and directed to work with law enforcement authorities including the attorney general and district attorneys to identify any need for additional legal staffing to eliminate any such backlog of adoption and care and protection cases and shall develop a plan to eliminate any such backlog through the use of contracted or temporary legal services; provided further, that not more than \$275,000 shall be obligated for an enhanced training program for social workers and investigators, so-called; provided further, that not more than \$5,028,388 shall be obligated for the operation of bridge homes, so-called, in each region; provided further, that said bridge homes shall provide extended diagnostic services not to exceed 90 days for any child and shall be geographically distributed to allow children in said placements to attend their pre-placement public school whenever possible; provided further, that said bridge homes shall be funded solely from this item; provided further, that not less than \$666,667 shall be obligated for child care and respite care services for foster families; provided further, that \$1,250,000 shall be expended for post-adoption services, so-called; and provided further, that no funds shall be transferred from this item to other items for purposes other than those listed herein \$17,247,645

General Fund	70.0%
Social Services Program Fund	30.0%

4800-2000 For lawyers employed by or under contract with the department, legal services and related expenses \$7,502,646

General Fund	90.0%
Social Services Program Fund	10.0%

Department of Mental Health.

- 5011-0100 For the operation of the department; provided, that the department shall not refer or discharge a child or adolescent to the custody or care of the department of social services until the department of mental health forwards its assessment and recommendation as to whether said child or adolescent is appropriate for foster care, or if due to severe emotional disturbance, is only appropriate for group care . . . \$19,947,182
- 5011-0300 For the costs of certifying direct care employees of private human services providers that deliver services under contract with the department of mental health in pharmaceutical administration; provided, that funds from this item shall be available to said providers, upon the approval of the commissioner of said department, for additional temporary staffing to ensure all direct care employees attend said certification training \$538,675
- 5042-5000 For child and adolescent services; provided, that of the sum appropriated herein, not less than \$69,408 shall be expended on the Franklin community action corporation in Greenfield for a youth and adolescent services program; provided further, that not less than \$25,000 be expended for the purposes of sending children to existing summer programs funded through the department of mental health's camperships, so-called; provided further, that not less than \$189,000 shall be expended for the purposes of providing educational services in institutional settings; provided further, that \$125,000 shall be expended for adolescent mental health services in the South Boston section of the city of Boston; and provided further, that said services may include a mobile crisis intervention team and a pilot program for juveniles and adolescents before the South Boston district court on matters concerning drug dependence and mental health \$58,008,149
- 5046-0000 For adult mental health and support services; provided, that the department is hereby authorized to allocate funds in an amount not to exceed \$5,000,000 from item 5095-0000 of section 2, to this item, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for

residential and day services for clients formerly receiving care at department facilities; provided further, that \$60,000 shall be expended for comprehensive vocational rehabilitation services to be provided to mentally ill adults who are homeless or are at-risk of being homeless; provided further, that said services shall be provided at the multi-service center located in the city of Lynn by a vocational rehabilitation agency specializing in employment issues of mentally ill adults; provided further, that not less than \$163,000 shall be expended for western Massachusetts community enterprise programs; provided further, that not less than \$394,502 shall be expended for the lighthouse clubhouse program, so-called, in the city of Springfield; provided further, that not less than \$43,460 shall be expended for the provision of community based case management for participants in the tenant-based rental assistance program funded under HUD's shelter plus care program, administered by Quincy interfaith sheltering coalition in conjunction with the Quincy housing authority; provided further, that any allocations from this item for services provided in the metro-Boston area, so-called, shall not cause funding decreases in other areas; provided further, that the Fairwinds clubhouse shall be allocated the same number of full time equivalent staff in fiscal year 1999 as they were in fiscal year 1998 which shall be reflected in their budget allocation; provided further, that not less than \$1,500,000 shall be expended for supported housing services beyond the level of services provided in fiscal year 1998; and provided further, that the department shall report to the house and senate committees on ways and means on the distribution of funds per adult and child planing population, so-called, and the types of services received in each region for fiscal year 1999 not later than December 1, 1998 \$211,870,198

5046-1000 For rental subsidies to eligible clients; provided, that the department shall establish the amounts of said subsidies so that payment thereof and of any other commitments from this item shall not exceed the amount appropriated herein. . . . \$3,107,550

5046-2000 For homelessness services; provided, that not less than \$200,000 shall be expended for a program by project AIM,

	so-called, of community enterprises for residents of Berkshire county who have a dual diagnosis of major mental illness and substance abuse, and who have either been homeless or are in jeopardy of becoming homeless; provided further, that \$50,000 shall be expended for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc., located in the city of Lynn	\$18,289,431
5046-4000	The department of mental health is hereby authorized to expend revenues collected up to a maximum of \$125,000 from occupancy fees charged to the tenants in the creative housing option in community environments, the CHOICE program, so-called, authorized by chapter 167 of the acts of 1987; provided, that all such fees collected shall be expended for the routine maintenance and repair of facilities in the CHOICE program, so-called, including the costs of personnel	\$125,000
5046-9999	For the payment of charges assessed to the department of mental health for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of mental health, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein; (2) that the department does not require any supplemental appropria-	

tion in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that, no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein \$7,854,776

5047-0001 For emergency service programs and acute inpatient mental health care services; provided, that the department is authorized to continue an interagency service agreement with the division of medical assistance for the purchase of said services and for such other services as said agreement may provide, including, but not limited to, acute inpatient care and diversionary services; provided further, that the most recent savings projection from the implementation of said agreement may be expended for community services in the MM subsidiary, so-called, of this item; provided further, that said emergency service programs shall take all reasonable steps to identify and invoice the third party insurer of all persons serviced by said programs; provided further, that the department shall report to the house and senate committees on ways and means not later than October 31, 1998 on the utilization of said emergency programs and acute inpatient beds by clients of the department during each month of fiscal year 1998; provided further, that said report shall detail the number of clients of the department determined to be eligible for the medicaid program during fiscal year 1998; and provided further, that said report shall detail expenditures made by the division of medical assistance on behalf of clients of the department and those uninsured persons not deemed to be clients of said department from the amounts appropriated in item 5047-0001 of section 2 of chapter 43

Chap. 194

of the acts of 1997 during fiscal year 1998 for said acute inpatient care and emergency services \$32,242,235

- 5047-0002 Notwithstanding any general or special law to the contrary, the department may expend revenues on continuing care services in the community in an amount not to exceed \$6,000,000 from increased service federal reimbursements collected for services rendered in emergency programs and acute inpatient and diversionary settings; provided, that no funds shall be expended from this item until the secretary of administration and finance shall certify in writing to the house and senate committees on ways and means that not less than \$1,000,000 from said reimbursements has been deposited in the General Fund; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that the department shall submit a report to the house and senate committees on ways and means not later than February 3, 1999, detailing the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served, the types of services purchased by region, and the annualized impact of said expenditures in the subsequent fiscal year \$6,000,000
- 5051-0100 For community mental health centers \$80,723,185
- 5055-0000 For forensic services provided by the department; provided, that not less than the amount expended in fiscal year 1998 shall be expended in fiscal year 1999 for mental health services at the Barnstable and Middlesex houses of correction. . . . \$7,418,222
- 5095-0000 For adult inpatient and facilities' services, including the operation of the secure unit at Medfield state hospital; provided, that the department is hereby authorized to allocate funds in an amount not to exceed \$5,000,000 from this item to item 5046-0000, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving care at department facilities \$106,599,797

Department of Mental Retardation.

- 5911-1000 For administration of the department of mental retardation pursuant to the provisions of chapter 19B of the General Laws; provided, that the department is hereby authorized and directed to conduct an investigation as to the distribution of funds among regions and report such findings to the house and senate committees on ways and means not later than December 15, 1998; and provided further, that such findings shall include, but not be limited to, any formulas needed for distribution of funds and any other factors which indicate fund distribution to the various regions of the department and recommendations for providing more equitable regional funding \$5,576,866
- 5911-1210 For the costs of certifying direct care employees of private human services providers that deliver services under contract with the department of mental retardation in pharmaceutical administration; provided, that funds from this item shall be available to said providers, upon the approval of the commissioner of said department, for additional temporary staffing to ensure all direct care employees attend said certification training \$1,544,650
- 5911-2000 For transportation costs associated with the adult services program; provided, that the department shall provide transportation on the basis of priority of need as determined by the department; provided further, that not less than \$109,522 shall be expended from this item for the life focus center in Charlestown; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that transportation services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means \$24,971,512
- 5911-9999 For the payment of charges assessed to the department of mental retardation for the payment of workers compen-

sation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of mental retardation, with the approval of the secretary of administration and finance, is hereby authorized to transfer from said DD subsidiary to the KK subsidiary, so-called, or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the charges owed by the department for workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback are less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established in sections 1A and 1B; and (4) that the department has not expended any funds for the payment of workers compensation, unemployment insurance, medicare taxes, health security plan, and the group insurance commission extended leave chargeback, so-called, in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding

Chap. 194

	the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$9,607,142
5920-1000	For the operation of regional and area offices of the department; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$42,102,956
5920-2000	For vendor-operated community-based residential adult services and for \$5,950,000 in annualized funding for priority one Turning 22 clients who began receiving said services in fiscal year 1998 pursuant to item 5920-5000 of section 2 of chapter 43 of the acts of 1997; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means; provided further, that not less than \$100,000 shall be expended for the Massachusetts special olympics, so-called; and provided further, that not less than \$100,000 shall be expended for increased mentor programs statewide	\$314,688,832
5920-2010	For state-operated community-based residential services for adults, including community-based health services for adults; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby	

	authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means	\$87,552,515
5920-2025	For community-based day and work programs for adults and for \$1,700,000 in annualized funding for priority one Turning 22 clients who began receiving services in fiscal year 1998 pursuant to item 5920-5000 of section 2 of chapter 43 of the acts of 1997; provided, that not less than \$402,265 shall be expended for the life focus center in Charlestown, including an alternative work program; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$76,752,171
5920-3000	For respite services and for \$850,000 in annualized funding for priority one Turning 22 clients who began receiving services in fiscal year 1998 pursuant to item 5920-5000 of section 2 of chapter 43 of the acts of 1997; provided, that the department shall pursue the highest rates of federal reimbursement possible for such services; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur	

Chap. 194

	until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$44,430,134
5920-4050	For services to clients identified by the department as unserved or underserved, so-called, on the waiting list for services compiled by the department; provided, that the amount appropriated herein shall not annualize to more than \$15,750,000 in fiscal year 2000; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 1999 on the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served in each region and the types of services purchased in each region; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; and provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement	\$15,750,000
5920-5000	For services for clients of the department who turn 22 years of age during state fiscal year 1999; provided, that the amount appropriated herein shall not annualize to more than \$13,600,000 in fiscal year 2000; provided further, that the department shall report to the house and senate committees on ways and means not later than January 1, 1999, on the use of any funds encumbered or expended from this item, including, but not limited to, the number of clients served in each region and the types of services purchased in each region; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 this item to ensure that services to are maintained throughout fiscal year 1999; and provided further, that notwithstanding the	

- provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means \$6,950,000
- 5920-6000 For services to the older unserved; provided, that not less than \$3,500,000 shall be expended for the provision of services to clients who remain at home; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein; provided further, that nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means \$6,750,000
- 5920-8000 For the child and adolescent services program; provided, that the commissioner of the department of mental retardation is hereby authorized to transfer funds from this item to item 5920-8010 of section 2, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that not less than \$437,000 shall be expended for support services for families of children with autism; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no

Chap. 194

	such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$5,130,871
5920-8010	For the residential expenses associated with school placements of children and adolescents between the ages of 4 and 21, inclusive; provided, that the commissioner of the department of mental retardation is hereby authorized to transfer funds from this item to item 5920-8000 of section 2, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 5911-1000 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department of mental retardation notifies the house and senate committees on ways and means	\$361,131
5930-1000	For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin regional center; provided, that the commissioner of the department of mental retardation is hereby authorized and directed to transfer funds from this item to items 5920-2000, 5920-2010 and 5920-2025 of section 2, as necessary, pursuant to an allocation plan, which shall detail by subsidiary and contract the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; provided further, that not more than \$3,000,000 shall be transferred from this item in fiscal year 1999	\$169,280,754
5982-1000	The department of mental retardation is hereby authorized to expend an amount not to exceed \$100,000 accrued through the sale of milk and other farm-related products at the Templeton developmental center, for program costs of said	

center, including supplies, equipment, and maintenance of the facility; provided, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, said department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system \$100,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-0100 For the office of the secretary of transportation and construction; provided, that said office shall collaborate with any efforts of the department of transitional assistance to develop a program of transportation services for current and former recipients of transitional aid to families with dependent children benefits pursuant to item 4401-1001 of section 2; provided further, that said office shall submit to the house and senate committees on ways and means quarterly reports detailing all personnel-related expenditures made from capital funds; provided further, that said reports shall delineate for the executive office and for each agency, board, authority or commission under its control, the amounts paid in the prior quarter as compensation for each type of position assigned to capital projects that were charged to each such funding source; provided further, that said reports shall also delineate by funding source any other amounts paid for personnel-related costs that were charged to said funds, including payroll allocations for budgetary employees, fringe recovery and other charge-backs; provided further, that said reports shall identify the number of full time equivalent personnel classified in each position type; provided further, that said reports shall list all employees who are paid from items 6000-0100, 6005-0011, 6010-0001, 6010-1000, and 6006-0003 of this act who also receive payments from any capital funds; provided further, that said reports shall include for each of said employees how much money said employees receive from said line items and how much money each employee

Chap. 194

	receives from any capital funds; and provided further, that said reports shall delineate said information for full time employees, part-time employees and contracted personnel.	\$228,679
	Highway Fund	100.0%
6000-0110	The executive office of transportation and construction may expend, for the purpose of property management and maintenance of railroad properties owned by said executive office on behalf of the commonwealth, including the cost of personnel, an amount not to exceed \$27,345 from the rents and fees received pursuant to section 4 of chapter 161C of the General Laws	\$27,345
6005-0011	For additional assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of sections 6 and 9 of chapter 825 of the acts of 1974, as amended by section 4 of chapter 291 of the acts of 1975; provided, that the authority shall furnish to the executive office of transportation and construction and the house and senate committees on ways and means all information necessary to compile quarterly capital-funded personnel expenditure reports; provided further, that operating expenditures of said authority for calendar year 1999 shall not exceed 103 per cent of its operating expenditures for calendar year 1998; and provided further, that the director of said authority is hereby authorized and directed to assist and make available any personnel or other resources necessary to formulate and implement plans developed in fiscal year 1999 for the forward funding initiative, so-called	\$225,655,750
	Local Aid Fund	40.0%
	General Fund	40.0%
	Highway Fund	20.0%
6005-0012	For certain debt service contract assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of section 28 of chapter 161A of the General Laws	\$267,967,662
	Local Aid Fund	40.0%
	General Fund	40.0%
	Highway Fund	20.0%

6005-0015 For certain assistance to the regional transit authorities, including operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program, and the intercity bus capital assistance program; provided, that the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July 1, 1998 and ending June 30, 1999, may enter into contracts with the authorities; provided further, that notwithstanding the provisions of section 152A of chapter 161, and of section 23 of chapter 161B of the General Laws, at least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in fiscal year 1998 shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities; provided further, that the share assessed upon said cities and towns shall be at least 25 per cent of said net cost of service; provided further, that in the event that 25 per cent of said net cost of service of each authority exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by cities and towns for the costs of new service, for which said cities and towns have not previously been assessed, as allowed by chapter 580 of the acts of 1980, the regional transit authority shall reduce its operating expenses or increase its revenues to meet the difference; provided further, that operating expenditures of each of the regional transit authorities for fiscal year 1999 shall not exceed 102.5 per cent of its operating expenditures for fiscal year 1998; provided further, that for the purposes of this item operating expenditures shall not include federal, private or additional municipal non-state revenue sources or any expenses arising from the provision of services required by the Americans with disabilities act or any new services in an amount not to exceed a total of \$3,613,905 for the 15 regional transit authorities; provided further, that said new services must first receive approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of

said new services shall be assessed to the cities and towns of the appropriate regional transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides said new services must file a report to the house and senate committees on ways and means and the joint committee on transportation, detailing the total costs and revenues associated with said new service; provided further, that the cost of said new services shall not annualize to more than \$3,613,905; provided further, that not later than January 1, 1999, each of the 15 regional transit authorities shall submit to the house and senate committees on ways and means a report detailing any and all revenues collected as a result of services provided pursuant to item 4401-1001 of this act; and provided further, that the pioneer valley regional transit authority shall maintain an express bus route from the city of Springfield to the Hampden county house of correction. . . \$39,211,813

Local Aid Fund	40.0%
General Fund	40.0%
Highway Fund	20.0%

6005-0017 For certain payments to cities and towns as authorized by clause (c) of section 13 of chapter 64A, section 13 of chapter 64E, and section 14 of chapter 64F of the General Laws; provided, that the amounts appropriated herein are in full satisfaction of the amounts payable pursuant to said clauses for fiscal year 1999; and provided further, that funds herein may be used for the lease, purchase and maintenance of vehicles for use in road maintenance, and for costs incurred for the removal of snow and ice \$43,472,110

Highway Fund	100.0%
--------------	--------

6005-0018 For additional contract assistance to be allocated by the Massachusetts Bay Transportation Authority for the net additional expense of commuter rail service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts Bay Transportation Authority district for fiscal year 1998, including funds for the net additional expense of bus service provided to and on behalf of the regional transit authorities and cities and towns outside said district for fiscal year 1999, in the

amounts determined to be appropriate by the secretary of administration and finance, on the recommendation of the secretary of transportation and construction; provided, that said additional expense of bus service shall not exceed \$2,250,000, in accordance with the provisions of section 28A of chapter 161A of the General Laws; and provided further, that not less than \$17,500 shall be made available for a commuter boat service between Hull and Boston

Boston	\$15,978,283
Local Aid Fund	40.0%
General Fund	40.0%
Highway Fund	20.0%

Massachusetts Aeronautics Commission.

6006-0003	For the administration of the commission, including the expenses of the commissioners	\$604,561
	Local Aid Fund	100.0%

Department of Highways.

6010-0001 For personnel services of the department of highways, for certain administrative and engineering expenses and equipment of the highways commission, the office of the highways commissioner, the division of administrative services, highway engineering, highway maintenance, highway construction, the outdoor advertising board, district and other highway activity offices, materials, supplies, fleet maintenance and equipment, general maintenance and equipment, the maintenance and operation of state highways and bridges, and for workers' compensation related expenditures as defined by the (D15) object code of the DD subsidiary, so-called, on the Massachusetts management accounting and reporting system, for employees of the department; provided, that funds appropriated herein shall be the only source of funding for all overtime expenses associated with the department's snow and ice control efforts; provided further, that of the amount appropriated herein not less than \$1,799,276 shall be expended for the purposes of funding 78 full-time equivalent positions previously funded from capital-funded accounts in fiscal year 1998; provided

further, that said transfer shall be effective January 1, 1999; provided further, that the department shall furnish to the executive office of transportation and construction and the house and senate committees on ways and means all information necessary to compile quarterly capital-funded personnel expenditure reports; provided further, that notwithstanding the provisions of any administrative bulletin, general or special law to the contrary, the department shall not pay any fees charged for the leasing or maintenance of vehicles to the division of operational services; provided further, that the department shall not be subject to the provisions of section 36A of chapter 30 of the General Laws and section 22 of chapter 7 of the General Laws, but shall submit to the secretary of transportation and construction for approval requests to repair vehicles costing in excess of the limit set forth in said section 22 of said chapter 7; provided further, that the department shall provide the house and senate committees on ways and means a quarterly report of repairs requiring said secretary's approval; provided further, that the department shall study and report on suggested improvements, if any, to state highway route 3A in the town of Kingston, including possible signalization at the intersections of state highway route 3A, state highway route 106 and Howland's Lane in said town; and provided further, that the department is directed to conduct a review and analysis on the traffic conditions at the intersection of state highway route 28 and Wood street in the town of Middleborough and report on any improvements thereof which will enhance traffic safety \$50,367,836

Highway Fund 100.0%

6010-1000 For the costs of routine highway maintenance provided by private and union workers in contract areas, 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4A, 4B, 4C, 4D, 5A, 5B, and 5C, so-called, and for costs associated with police services and overtime within said areas; provided, that \$90,000 shall be made available for all contractual contingency costs associated with highway maintenance in said areas; provided further, that no additional funds made available to the department, either directly or indirectly, including

Chap. 194

capital, trust, or other funds, shall be used to supplement or supplant the funds for said contract areas appropriated herein; and provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing for each contract area expenditures for the costs of contractual contingency fees, personnel, police services, overtime, materials, and vehicle repair \$25,103,171
Highway Fund 100.0%

6030-7201 For the cost of hired and leased equipment, so-called, used for snow and ice control; provided, that no funds appropriated herein shall be used for materials, overtime costs or vehicle repair related to snow and ice control \$6,727,688
Highway Fund 100.0%

6030-7211 For vehicle repair directly associated with department snow and ice control equipment; provided, that no funds appropriated herein shall be used for materials, overtime costs or hired or leased equipment related to snow and ice control \$175,000
Highway Fund 100.0%

6030-7221 For the cost of sand, salt, and other control chemicals used for the purpose of snow and ice control; provided, that no funds appropriated herein shall be used for hired or leased equipment, overtime costs or vehicle repair related to snow and ice control \$5,886,473
Highway Fund 100.0%

BOARD OF LIBRARY COMMISSIONERS.

7000-9101 For the operation of the board of library commissioners \$1,090,791
Local Aid Fund 100.0%

7000-9401 For state aid to regional public libraries; provided, that the board of library commissioners may provide quarterly advances of funds for purposes authorized by clauses (1) and (2) of section 19C of chapter 78 of the General Laws, as it deems proper, to regional public library systems throughout each fiscal year, in compliance with the office of the comptroller's regulations on state grants, 815 CMR 2.00; provided further, that notwithstanding the

Chap. 194

	provisions of section 19C of chapter 78 of the General Laws or any other general or special law to the contrary, the Boston public library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to 96.35 cents per resident in the commonwealth; provided further, that notwithstanding the provision of any general or special law to the contrary, no regional public library shall receive any money under this item in any year when the appropriation of the city or town where such regional public library is located is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the three years immediately preceding; and provided further, that notwithstanding the provisions of this item, the board of library commissioners may grant waivers, in a number not to exceed one-tenth the number permitted pursuant to the second paragraph of section 19A of said chapter 78, to any library not receiving funds as a library of last recourse for a period of not more than one year	\$16,845,377
	Local Aid Fund	100.0%
7000-9402	For the talking book library at the Worcester public library; provided, that not less than \$15,500 shall be expended to enlarge the number of titles available to talking book program users, including, but not limited to, purchasing, recording and production of specialized format reading materials in braille, on cassettes, and in electronic media	\$209,978
	Local Aid Fund	100.0%
7000-9406	For the braille and talking book library at Watertown, including the operation of the machine lending agency; provided, that not less than \$121,000 shall be expended to enlarge the number of titles available to talking book program users, including, but not limited to, purchasing, recording and production of specialized format reading materials in braille, on cassettes, and in electronic media; and provided further, that not less than \$180,000 shall be expended for adaptive technology access and resource sharing	\$1,503,919
	Local Aid Fund	100.0%

Chap. 194

- 7000-9501 For state aid to public libraries; provided, that notwithstanding the provision of any general or special law to the contrary, no city or town shall receive any money under this item in any year when the appropriation of said city or town for free public library services is below an amount equal to 102.5 per cent of the average of the appropriations for free public library service for the three years immediately preceding; provided further, that notwithstanding the provisions of this item, the board of library commissioners may grant waivers permitted pursuant to the second paragraph of section 19A of chapter 78 of the General Laws to any library not receiving funds as a library of last recourse for a period of not more than one year; and provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city or town and held as a separate account and shall be expended by the public library of such city or town without appropriation, notwithstanding the provisions of any general or special law to the contrary \$6,899,804
- Local Aid Fund 100.0%
- 7000-9506 For the telecommunications expenses of automated resource sharing networks and their member libraries; provided, that \$3,943,000 shall be expended from this item solely for the purpose of continued implementation of the strategic plan, so-called \$4,420,235

OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.

Department of Labor and Workforce Development.

- 7002-0100 For the administration of the department of labor and workforce development including the divisions under the control of the department; provided, that funds shall be expended from this item for the deputy director of workforce development; and provided further, that on October 1, 1998 and April 1, 1999, the deputy director shall submit to the house and senate committees on ways and means a comprehensive report describing in detail the job training services, including labor exchange, skills training and remedial education services related thereto which have been provided during the course of the fiscal year in the commonwealth, describing the systems for

Chap. 194

	delivery of such services, describing the costs of such services and the sources of revenue for such services and making recommendations for improvements in the delivery of such services	\$462,242
7003-0400	For a program to provide comprehensive re-employment assistance for dislocated workers, so-called, whose unemployment status is due to a plant closing or layoff; provided, that said assistance shall be provided in conjunction with any applicable federal funds granted to the state for related assistance; provided further, that the corporation for business, work and learning shall submit quarterly reports to the house and senate committees on ways and means on the number of persons in each service delivery area served by said program, on the number of people provided with training, retraining, education, support or rapid response services, and on the number of people placed in jobs as a result of said services	\$377,000
7003-0500	For the economic stabilization trust component of the industrial services program, as provided by chapter 23D of the General Laws, and for a re-employment assistance program as specified in section 71D of chapter 151A of the General Laws; provided, that a report of all revenues, expenditures, assets and liabilities of the program and of the economic stabilization trust be filed quarterly with the secretary of administration and finance and the house and senate committees on ways and means; and provided further, that funds appropriated herein may be used to provide working capital and related assistance to defense dependent firms and leverage federal matching funds authorized pursuant to Title IX of the public works and economic development act of 1965, as amended	\$605,400
7003-0601	For the summer jobs youth-at-risk program, including the costs of administration; provided, that service levels shall be developed so as not to exceed the appropriation made available herein; provided further, that the same number of youths shall be served in fiscal year 1999 that were served in fiscal year 1998, prior appropriation continued	\$1,525,000
7003-0603	For school-to-work connecting activities, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, the department of labor and	

workforce development, in cooperation with the board of education and the MassJOBS council, is hereby authorized to establish and support a public-private partnership to link high school students with economic and learning opportunities on the job as part of the school-to-work transition program; provided further, that said program may include the award of matching grants to regional employment boards or other local public-private partnerships involving local community job commitments and work site learning opportunities for students; provided further, that said grants shall require at least a 200 per cent match in wages for said students from private sector participants; provided further, that the program shall include, but not be limited to, a provision that business leaders commit resources to pay salaries, to provide mentoring and instruction on the job, and to work closely with teachers; provided further, that public funds shall assume the costs of connecting schools and businesses to ensure that students serve productively on the job; provided further, that not less than \$85,000 shall be expended for the purpose of an AFL-CIO school-to-work labor liaison, so-called; and provided further, that said positions shall facilitate the involvement of organized labor and the comprehensive initiative known as school-to-work, which prepares students to enter the workforce through a combination of classroom and work-based programs \$4,585,000

7003-0700 For the expenses of the corporation for business, work and learning to secure employment, training and counseling for displaced workers and for the employee involvement and ownership in the workplace component of the industrial services program; provided, that \$1,000,000 shall be expended for employed worker training technical assistance and matching grants; provided further, that not more than \$175,000 shall be expended to administer said technical assistance program; provided further, that not less than \$450,000 shall be expended for E-team machinist training program in the city of Lynn; provided further, that not less than \$85,000 shall be expended for an incumbent worker training specialist within the Massachusetts AFL-

CIO; provided further, that not less then \$122,000 shall be expended for five part-time AFL-CIO rapid response labor specialists; provided further, that not less than \$127,000 shall be expended for the employee involvement and ownership program, so-called; provided further, that a report of all revenues, expenditures, assets and liabilities of said corporation shall be filed quarterly with the secretary of administration and finance and the house and senate committees on ways and means; provided further, that the initial report of the corporation shall project spending for each state funded program anticipated to be administered by the corporation in fiscal year 1999 which shall be delineated according to the expenditure classification schedule established by the comptroller, and for each subsequent report, actual expenditures for each such program according to said classification schedule; provided further, that each such report shall further establish the indirect and direct administrative costs assessed by said corporation against each such program and a brief description of the purpose and performance objectives of each grant or contract awarded or issued by said corporation to third party vendors, contractors or other entities for each such state-funded program; provided further, that said corporation shall remain a quasi-public corporation; and provided further, that not less than \$30,000 shall be expended for a contract with child and family services of Cape Cod, so-called, for a pilot program to provide comprehensive education, training and supportive services for parents and their children \$2,022,000

7003-0701 For grants and technical assistance administrated by the division of employment and training, pursuant to the provisions of section 2RR of chapter 29 of the General Laws and for the cost of collecting the assessment established in section 14L of chapter 151A of the General Laws; provided that not more than \$1,500,000 shall be expended for direct technical assistance pursuant to paragraph (2) of subsection (b) of said section 2RR of said chapter 29 \$9,000,000

Workforce Training Fund 100.0%

Chap. 194

- 7003-0801 For the Just-A-Start Corporation to provide training for entry level employment in the biotech and medical fields for 30 unemployed or displaced workers or people on welfare; provided, that funds may be expended from this item for under-employed workers \$150,000
- 7003-0803 For the seven one-stop career centers in existence on May 1, 1997 which are located in the Boston, Hampden county and the Metro North service delivery areas, so-called, and any satellite offices thereof which opened on or before December 1, 1997; provided, that no other career centers shall receive funding from this item \$2,750,000
- 7003-0900 For the tactical training initiative, so-called \$524,421
- 7003-0901 For a summer jobs youth-at-risk program; provided, that no funds appropriated herein shall be allotted or disbursed prior to the receipt of equal matching funds from private sources to any entity or municipality eligible for or requesting funds from this item; provided further, that an allotment and disbursement plan shall be submitted to the house and senate committees on ways and means prior to the expenditure of any funds appropriated herein; and provided further, that funds appropriated herein shall cover expenditures through the extended account payable period of fiscal year 1999, prior appropriation continued \$412,500
- 7003-1000 For the workforce development initiative; provided, that the strategic planning committee of said council shall make recommendations relative to the use of said funds subject to approval by the full MassJobs council; provided further, that the executive committee of the MassJobs council shall approve the use of said funds should the full council be unable to approve the use of said funds in a timely manner; provided further, that each of the 16 regional employment boards shall receive not less than \$75,000 in fiscal year 1999; provided further, that no regional employment board shall receive more than \$37,500 until the report required by section 362 of this act has been submitted to the house and senate committees on ways and means; provided further, that each regional employment board shall (1) provide training on or before October 1, 1998 to each of its board members concerning the requirements of federal and state

law with respect to conditions on the use of job training funds and the board's role in ensuring compliance with such requirements, (2) shall produce a written assessment of the performance of and planned improvements to job training delivery systems, including any existing one-stop career centers, in its region, and (3) shall file a copy of said assessment with the MassJobs council, the joint committee on commerce and labor and the house and senate committees on ways and means; provided further, that no grant made available to a regional employment board shall be used to encourage, induce, require or mandate the establishment of said regional employment board's administrative staff as an entity independent of the administrative entity agreed to under the provisions of the Federal Job Training Partnership Act by the regional employment board and the lead elected official; provided further, that expenditures for programs specified herein shall be subject to the approval of the local regional employment boards; provided further, that no specific program allocations directed herein shall preclude a regional employment board from receiving its equal share of funds to be distributed to regional employment boards by the MassJobs council; provided further, that funds provided to the regional employment boards shall not be subject to any limitations imposed by the MassJobs council; provided further, that the MassJobs council is hereby authorized and directed to expend not less than \$150,000 for the consumer provider program operated by CASCAP, Inc. in collaboration with Bunker Hill community college for the training of men and women with psychiatric disabilities to become part-time employees at health and human services agencies within the commonwealth; provided further, that of the amount appropriated herein, not less than \$150,000 shall be expended for the western Massachusetts enterprise fund and JVS microenterprise program as the supplemental match to conduct an entrepreneurial training program for income eligible residents; provided further, that not less than \$100,000 shall be provided to the Massachusetts maritime academy for a training and work program in

maritime trades, including but not limited to sailing, seamanship and nautical training; provided further, that the Cape Cod, Martha's Vineyard and Nantucket regional employment board shall oversee and make recommendations regarding said program; provided further, that not less than \$155,000 shall be expended to fund a program at the Massachusetts AFL-CIO to support and coordinate labor representation on the regional employment boards in the state's-workforce development system; provided further, that not less than \$75,000 shall be expended for the career beginning program, so-called, at Worcester state college in the city of Worcester; provided further, that not less than \$100,000 shall be expended for the refugee and immigrant self-sufficiency program, so-called, at the University of Massachusetts at Lowell \$1,980,000

7003-2055 For the youth, senior service, and conservation group corps program, including the costs of administration; provided, that not more than \$200,000 shall be expended for the administration of the Massachusetts service alliance; and provided further, that not less than \$5,000 shall be provided for the Bonnie Brea camp, so-called, in the city of Gardner \$1,500,000

Division of Apprentice Training.

7002-0101 For the operation of the apprentice training program; provided, that no position in the apprentice training division shall be subject to chapter 31 of the General Laws. \$325,000

Division of Occupational Safety.

7002-0200 For the operation of the industrial safety program \$1,158,906
7002-0400 For the operation of the occupational hygiene program; provided, that the division may employ staff not subject to chapter 31 of the General Laws for a program to evaluate asbestos levels in public schools and other public buildings. . . . \$1,051,487

Division of Industrial Accidents.

7002-0500 For the operation and administrative expenses of the division of industrial accidents; provided, that \$800,000 shall be expended for occupational safety training grants; provided

Chap. 194

further, that said division shall submit a report not later than February 1, 1999 to the house and senate committees on ways and means detailing the scope, objective, and results of said grant recipients' safety training program; provided further, that funds appropriated herein in excess of the fiscal year 1998 spending level for said grants shall be a one-time fiscal year 1999 expense; provided further, that the general fund shall be reimbursed the amount appropriated herein and for associated indirect and direct fringe benefit costs from assessments levied pursuant to section 65 of chapter 152 of the General Laws; provided further, that the division shall assign a judge to hear cases in the county of Berkshire not less than once a month; and provided further, that said division is hereby directed to cooperate and respond to all legislative committee requests for information \$18,109,912

Labor Relations Commission.

7002-0600 For the operation of the labor relations commission; provided, that \$20,000 shall be expended for the purpose of maintaining a satellite office in the Springfield state office building \$1,034,769

Joint Labor Management Committee.

7002-0700 For the operation of the joint labor management committee \$440,138

Board of Conciliation and Arbitration.

7002-0800 For the operation of the board of conciliation and arbitration. \$741,216

Division of Employment and Training.

7003-0810 For the welfare-to-work skills plus program to be administered by the division of employment and training; provided, that said program shall serve only recipients of the transitional aid to families with dependent children program; and provided further, that any career center, so-called, receiving funds through said program shall each submit individual quarterly reports to the house and senate committees on ways and means listing the number of said recipients placed in jobs and remaining in such jobs for at least 60 days due to the efforts of said career centers \$2,000,000

<i>Department of Housing and Community Development.</i>		
7004-0001	For the Indian affairs commission	\$95,967
7004-0002	For the urban initiative fund, a loan and grant program for inner-city neighborhoods, for the purposes of education, job training, business development, health care, day care, youth activities, including athletic and recreation programs, violence and crime prevention, and housing; provided, that not less than \$10,000 of the amount appropriated herein shall be expended as a grant to the planned learned achievement for youth program; and provided further, that said urban initiative fund shall be administered by the community development finance corporation pursuant to section 137 of chapter 133 of the acts of 1992	\$500,000
	Local Aid Fund	100.0%
7004-0003	For the West Broadway task force, so-called, to provide certain tenant services	\$125,000
	Local Aid Fund	100.0%
7004-0099	For the administration of the department; provided that, notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development is hereby authorized to make expenditures for the purposes of said department against federal grants for certain direct and indirect costs pursuant to an overhead cost allocation plan approved by the comptroller; provided further, that the comptroller shall establish and designate an account on the Massachusetts management accounting and reporting system for the purpose of making such expenditures; provided further, that expenditures made against said account shall not be subject to appropriation and may include the cost of personnel; provided further, that said department shall submit quarterly reports to the house and senate committees on ways and means on object code expenditures made against said account; provided further, that \$24,865 shall be transferred from this item to the University of Massachusetts for the purposes of the Native American Resource Center, so-called; and provided further, that not less than \$10,000 be expended for the expenses of the manufactured home commission as established by chapter 145 of the acts of 1993, including, but not limited to travel, postage, advertising and printing. . . .	\$5,889,141

Chap. 194

- 7004-0200 For the municipal assistance program to provide management incentive grants, technical assistance and training for municipal governments to provide cost effective and efficient delivery of local services, including regionalization of services; provided, that said incentive grants may be utilized for the purchase of computer hardware and equipment; provided further, that funds appropriated herein may be provided in advance; provided further, that no funds shall be expended from this item in the AA subsidiary, so-called, for the compensation of state employees; and provided further, that not less than \$31,500 shall be allocated as a management incentive grant to the Franklin Regional Council of Governments for costs associated with the Regional Public Health Agent pilot project in Franklin county \$800,000
- Local Aid Fund 100.0%
- 7004-1966 For the loan program established pursuant to section 197E of chapter 111 of the General Laws, as amended, for lead abatement throughout the commonwealth; provided, that the terms and conditions of such loans will be based on income eligibility criteria and include terms and plans that allow low- and moderate- income individuals to defer loan repayment until transfer of the property; provided further, that funds made available herein shall be administered by the department of housing and community development in consultation with the department of public health; provided further, that funds shall be disbursed from this item on a quarterly basis subject to a disbursement plan which shall be filed in advance with the house and senate committees on ways and means; provided further, that such disbursements shall be made upon demonstration of need by the entity selected by the department to implement the program funded herein; and provided further, that funds received for the repayment of loans made under the provisions of this item may be retained and expended without further appropriation for the loan program established pursuant to said section 197E of said chapter 111 \$5,800,000
- 7004-2025 For the Massachusetts neighborhood crime watch commission to provide training and publications in support of a statewide program of crime prevention \$118,000

Chap. 194

7004-2027	For community economic development; provided, that contracts may be awarded to community-based organizations; and provided further, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees	\$1,900,000
	Local Aid Fund	100.0%
7004-2475	For the home ownership opportunity affordable housing program; provided, that all sums appropriated herein shall be used to write down interest rates on soft second mortgage loans, so-called, for low and moderate income first-time home buyers	\$3,000,000
7004-3036	For housing services to provide assistance through community-based organizations to low-income tenants in privately-owned housing, and to landlords to maintain such housing; provided, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees	\$265,000
7004-4314	For the expenses of a service coordinators program established by the department to assist tenants residing in housing developed pursuant to sections 39 and 40 of chapter 121B of the General Laws to meet tenancy requirements in order to maintain and enhance the quality of life in said housing	\$650,000
7004-8878	For the private rental housing development action loan program; provided, that notwithstanding the provisions of any general or special law to the contrary, no new commitments, contracts, or renegotiations of existing contracts shall be entered into during fiscal year 1999 or any subsequent fiscal year	\$2,366,653
7004-9004	For a pilot program to enable households in state-assisted public housing to transition to unsubsidized housing options in the private market; provided, that up to 5,000 qualified households residing in chapter 200 or chapter 705 state-assisted housing developments shall be allowed to participate in a voluntary program that allows a portion of a household's rental payments to a housing authority to be placed in escrow accounts for the purpose of making said transition affordable, including, down payment costs, closing costs, first and last month's rent, security deposit,	

moving costs, and appliances necessary for occupancy; provided further, that the department, subject to appropriation, shall contribute one dollar for every two dollars of rental payment placed by a household in such an escrow account which shall inure to the benefit of the household; provided further, that the amount of said rental payments eligible to be placed in said escrow accounts shall consist of the savings in rent payments derived by allowing an adjustment to a household's income for purposes of computing rent for the amounts withheld from a household's earned income for (1) state and federal income tax withholding payments and (2) payments for Social Security, FICA, or other retirement deductions and (3) other deductions as may be allowed by law or regulation consistent with the provisions of this item; provided further, that in promulgating regulations that allow a household's income to be so adjusted for the calculation of rental payments, the department of housing and community development shall establish a uniform method for calculating the amount of rent adjustments allowable under said pilot program; provided further, that said regulations shall not include in said calculation the amounts withheld from a dependent's income nor shall the income of any such dependent be subject to escrow; provided further, that a household participating in said program shall agree in writing to the minimum amount needed to be held in escrow in order to provide for said affordable transition and to a maximum amount to be held in said escrow account; provided further, that in no event, shall the amount of any escrow account exceed \$10,000; provided further, that rental payments held in escrow for a household that elects not to make said transition pursuant to the written agreement or which is evicted by a housing authority for any reason shall be repaid to the housing authority and the commonwealth for the value of any rent subsidy provided to said household and the matching contribution paid by the department; provided further, that a household that loses eligibility for state-assisted public housing due to increased income earnings shall use the amount held in escrow for the purposes of transition

housing costs; provided further, that the use of escrowed rental payments by a household for said transition costs shall be verified by the household and any funds not used for transition costs shall be recovered by the housing authority; provided further, that upon making said transition, households which subsequently apply for tenancy in public housing may not be granted preference based solely upon their participation in said transition program; provided further, that said department shall select not more than five housing authorities that demonstrate a willingness and capability to participate as demonstration sites for said pilot program; provided further, that said authorities may, for the purposes of administrative efficiency, maintain a centralized escrow account in lieu of separate accounts for each participating household; provided further, that detailed accounting records shall be maintained for each participating household by a housing authority that establishes such a centralized escrow account; provided further, that said housing authorities shall take all steps to invest said escrow accounts in investment vehicles that maximize the interest earned on said escrow accounts; provided further, that said housing authorities may retain not more than 20 per cent of any such interest earned on rental payments held in escrow to offset the costs of administering said program; provided further, that the remaining interest earnings shall be credited to the escrow account of a household; provided further, that the department shall require said housing authorities to obtain the social security numbers of households participating in said program to verify household income and deductions with the department of revenue and other parties; provided further, that rental payments held in escrow shall be treated as deductible rent for purposes of calculating Massachusetts personal income taxes pursuant to subparagraph (9) of paragraph (a) of part B of section 3 of chapter 62 of the General Laws; provided further, that, notwithstanding the provisions of any general or special laws to the contrary, the release of escrow payments to a household, including interest earned thereon and the value of the matching contribution, shall not create

any tax liability for such a household; provided further, that a tax liability shall be created in the event that a household does not elect to make said transition pursuant to said written agreement; provided further, that said department shall promulgate regulations for the administration of said program not later than October 15, 1998; and provided further, that said department is hereby authorized to transfer funds provided herein to item 7004-9005 in section 2 of this act for the purposes of supplementing rental funds directed toward said pilot program \$750,000

7004-9005 For subsidies to housing authorities and nonprofit organizations for deficiencies caused by certain reduced rentals in housing for the elderly, handicapped, veterans and relocated persons pursuant to sections 32 and 40 of chapter 121B of the General Laws; provided, that notwithstanding the provisions of any general or special law to the contrary, all housing authorities operating elderly public housing are authorized and directed to offer first preference for elderly public housing units which are vacant as of the effective date of this act, and thereafter, to those persons 60 years of age or older on June 30, 1995, then receiving rental assistance from the Massachusetts rental voucher program; provided further, that the department of housing and community development shall enforce compliance by local housing authorities with said provisions, and is hereby authorized to take such actions as it deems necessary, including requiring regular, current reports by housing authorities and non-profit organizations operating such public housing, to insure compliance in a timely and equitable manner; provided further, that said department may expend funds appropriated herein for deficiencies caused by certain reduced rentals which may be anticipated in the operation of housing authorities for the first quarter of the subsequent fiscal year; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve and capital reserve included in the budgets of housing authorities; provided further, that no funds shall be expended from this item for the compensation of state employees; provided further, that the amount appropriated

herein shall be deemed to meet any and all obligations pursuant to said sections 32 and 40 of said chapter 121B; and provided further, that any new reduced rental units developed in fiscal year 1999 eligible for subsidies pursuant to this item, shall not cause any annualization that results in an amount exceeding the amount appropriated herein \$30,503,770

Local Aid Fund 100.0%

7004-9024 For a program of rental assistance for families and elderly persons of low income through mobile and project based vouchers; provided, that notwithstanding the provisions of any general or special law to the contrary, said rental assistance in the form of mobile vouchers, so-called, shall be paid only to those eligible households, currently holding mobile vouchers, so-called, that held, or were lawfully entitled to hold, chapter 707 certificates, so-called, as of October 31, 1992, pursuant to the chapter 707 program, so-called, and to those households currently holding mobile vouchers, so-called, that held, or were lawfully entitled to hold state housing vouchers, so-called, as of October 31, 1992, pursuant to a program of housing assistance consistent with the program requirements established by the federal government for the program authorized by Public Law 98-181, Section 207; provided further, in emergency situations, subject to the approval of the director of the department, for the purpose of providing housing vouchers to eligible households currently occupying project-based units, so-called, the leases of which have expired due to the non-renewal of project-based rental assistance contracts; provided further, that at the discretion of the director, on a case by case basis, the department shall utilize all otherwise available funds, appropriated herein, to increase the rental subsidy at eligible project-based developments, so-called; provided further, that the department shall submit a report to the house and senate ways and means committees, not later than September 1, 1998, detailing the department's guidelines for assessing emergency situations involving the conversion of project-based vouchers, so-called, to mobile vouchers, so-called, and the eligibility of a project-based

development to receive a rental subsidy increase in fiscal year 1999; provided further, that the department shall submit quarterly reports to the house and senate ways and means committees detailing the number of project-based vouchers, so-called, which have been converted to mobile vouchers, so-called, and the number of project-based developments that have elected or are at risk of non-renewal of the rental assistance contract; provided further, that there shall be no further, payments made under said chapter 707 program, so-called, or under said program of housing assistance consistent with the requirements established by the federal government for the program authorized by Public Law 98-181, Section 207, which state program was known as the state housing voucher program, so-called; provided further, that rental assistance shall only be paid pursuant to a program to be known as the Massachusetts rental voucher program, as such program may hereafter be amended by the department of housing and community development; provided further, that the income of said households shall in no event exceed 200 per cent of the federally-established poverty level; provided further, that any household, in which a participant or member of a participant's household in the Massachusetts rental voucher program shall fail to provide their social security number for use in verifying the household's income and eligibility, shall no longer be eligible for a voucher or to receive benefits pursuant to the Massachusetts rental voucher program; provided further, that the director of said department as a condition of continued eligibility for a voucher and voucher payments, may require disclosure of social security numbers by participants and members of participants' households in the Massachusetts rental voucher program for use in verification of income with other agencies, departments and executive offices in the commonwealth; provided further, that said vouchers shall be in varying dollar amounts and set by the director based on considerations, including, but not limited to, family size and composition, family income levels, and geographic location; provided further, that notwithstanding the provisions of any general

or special law to the contrary, the use of rent surveys shall not be required in determining the amounts of such mobile vouchers, so-called, or such project-based vouchers, so-called; provided further, that any household which is proven to have caused intentional damages to their rental unit in an amount exceeding two month's rent during any one year lease period shall be terminated from the program; provided further, that notwithstanding the provisions of any general or special law to the contrary, a mobile voucher whose use is or has been discontinued shall not be reassigned at any time; provided further, that an allowance not to exceed \$25 per voucher per month shall be determined and paid by said department for administration of the rental assistance program; provided further, that said costs of administration shall not exceed 6 per cent of the appropriation provided herein; provided further, that said 6 per cent shall include, but not be limited to, all expenditures which may be made by the director to conduct or otherwise contract for rental voucher program inspections; provided further, that under no circumstances shall subsidies be reduced for the cost of accommodating the cost of said inspections; provided further, that notwithstanding any provision of law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, so-called, or project-based voucher, so-called, but each household shall pay at least 30 per cent of income as rent; provided further, that said department shall establish the amounts of the mobile vouchers, so-called, and the project-based vouchers, so-called, so that the appropriation herein is not exceeded by payments for rental assistance and administration; provided further, that said department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent" as used in this item shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's

occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that upon vacancy of a project-based dwelling unit, households holding mobile vouchers, so-called, shall have priority for occupancy of said project-based dwelling units; provided further, that said department may impose certain obligations for each participant in the Massachusetts rental voucher program through a 12 month contract which shall be executed by the participant and the department; provided further, that such obligations may include, but need not be limited to, job training, counseling, household budgeting, and education, to the extent that appropriate programs, as defined in regulations promulgated by the department of housing and community development, are available; provided further, that each participant shall be required to undertake and meet any such obligation as a condition for continued eligibility in the program; provided further, that for continued eligibility each participant shall execute any such 12 month contract on or before September 1, 1998 if his or her annual eligibility recertification date occurs between June 30, 1998 and September 1, 1998 and otherwise on or before his or her annual eligibility recertification date; provided further, that any participant who is over the age of 60 years or who is handicapped may be exempted from any obligations unsuitable under his or her particular circumstances; provided further, that the department of housing and community development shall submit an annual report to the secretary of administration and finance and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; and provided further, that no funds shall be expended from the AA subsidiary, so-called, of this item for the compensation of state employees \$36,131,919

7004-9027 For state housing assistance for rental production (SHARP) contracts with sponsors of rental housing projects financed through the Massachusetts housing finance agency, the provisions of any general or special law to the contrary, no

new commitments shall be entered into during fiscal year 1999 for said fiscal year or any subsequent fiscal years; provided further, that the director of said department is hereby authorized and directed to review all amounts disbursed through this program in the five fiscal years previous to the effective date of this act and to recover all excess funds disbursed; and provided further, that the director shall file a report with the house and senate committees on ways and means, detailing the recovery of said overpayments and recommending alternative uses for said amounts \$28,672,450

7004-9030 For the transitional rental assistance program established pursuant to chapter 179 of the acts of 1995; provided, that notwithstanding the provisions of any general or special law to the contrary, said transitional rental assistance shall be in the form of mobile vouchers, so-called; provided further, that said vouchers shall be in varying dollar amounts and set by the director on considerations including, but not limited to, household size and composition, ranges of household income and geographic location; provided further, that any household which is proven to have caused intentional damages to their rental unit in an amount exceeding two month's rent during any one year shall be terminated from the program; provided further, that said department shall pay local housing agencies administering said program an allowance not to exceed \$25 per voucher per month to cover the costs of administration; provided further, that notwithstanding any provision of law to the contrary, there shall be no maximum percentage applicable to the amount of income paid for rent by each household holding a mobile voucher, so-called, but each household shall be required to pay not less than 25 per cent of their net income, as defined in regulations promulgated by said department, for units if utilities are not provided by the unit owner, or not less than 30 per cent of their income for units if utilities are provided by the unit owner; provided further, that payments for said transitional rental assistance may be provided in advance; provided further, that said department shall establish the amounts of the mobile vouchers, so-

called, so that the appropriation herein is not exceeded by payments for rental assistance and administration; provided further, that said department shall not enter into commitments which will cause it to exceed the appropriation set forth herein; provided further, that the amount of a rental assistance voucher payment for an eligible household shall not exceed the rent less the household's minimum rent obligation; provided further, that the word "rent" as used in this item shall mean payments to the landlord or owner of a dwelling unit pursuant to a lease or other agreement for a tenant's occupancy of the dwelling unit, but shall not include payments made by the tenant separately for the cost of heat, cooking fuel, and electricity; provided further, that said department shall submit an annual report to the state budget director, the secretary of administration and finance, and the house and senate committees on ways and means detailing expenditures, the number of outstanding rental vouchers, and the number and types of units leased; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to any form of housing; provided further, that nothing herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement; provided further, that consistent with chapter 179 of the acts of 1995 the amount appropriated herein shall not annualize to more than \$4,000,000 in fiscal year 2000; and provided further, that said program shall provide funding for not more than 800 mobile vouchers, so-called \$4,000,000

7004-9101 For federally aided urban renewal community development; provided, that no new contracts shall be entered into during fiscal year 1999 \$95,954
Local Aid Fund 100.0%

7004-9102 For non-federally aided urban renewal community development; provided, that no new contracts shall be entered into during fiscal year 1999 \$138,450
Local Aid Fund 100.0%

7004-9108 For urban revitalization and development projects authorized pursuant to section 54 of chapter 121B of the General

Chap. 194

	Laws; provided, that notwithstanding the provisions of sections 53 or 57 of said chapter 121B to the contrary, such funds may be provided to any agency of a city or town designated by the chief executive officer to act on behalf of the city or town; provided further, that no new commitments shall be entered into during fiscal year 1999; and provided further, that not less than \$118,000 and not more than \$200,000 shall be expended for grants to the city of Pittsfield	\$2,441,500
	Local Aid Fund	100.0%
7004-9201	For interest subsidies for the private development of affordable housing; provided, that notwithstanding the provisions of any general or special law to the contrary, no new commitments shall be entered into during fiscal year 1999 for said fiscal year or any subsequent fiscal years	\$8,166,571
7004-9315	For the low income housing tax credit program; provided, that the department may expend an amount not to exceed \$801,000 accrued from fees collected for the regulation of TELLER, so-called, projects undertaken pursuant to paragraph (m) of section 26 of chapter 121B of the General Laws, from fees collected pursuant to Executive Order No. 291, pertaining to low-income housing tax credits, and from fees collected pursuant to the rental housing development action loan program, for the costs of administering and monitoring said programs, including the costs of personnel, subject to the approval of the director of said department; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purpose of accommodating timing discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system, prior appropriation continued	\$801,000
	<i>Office Of Consumer Affairs And Business Regulation.</i>	
7006-0000	For the office of the director of consumer affairs and business regulation, including expenses of an administrative	

Chap. 194

services unit; provided, that said director shall submit to the house and senate committees on ways and means documentation detailing the purpose, current fiscal year cost and annualization costs for supplemental budget requests for said office of the director or any office or agency under its administration within five days of the filing of any such supplemental request by the governor \$1,541,587

Division of Banks.

7006-0010 For the operation of the division of banks \$9,314,043

Division of Insurance.

7006-0020 For the operation and administration of the division, including expenses of the board of appeal on motor vehicle policies and bonds, and certain other costs of supervising motor vehicle liability insurance and the expenses of the fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to the provisions of chapter 31 of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by section 1 of chapter 5 of the General Laws; provided further, that said division shall maintain a phone system in its western Massachusetts office to immediately transfer calls made to said office to the consumer assistance office in the city of Boston during any business hours when the western Massachusetts office is closed; provided further, that the division shall have an employee or other such person answering all initial incoming telephone calls, excluding all direct in-dial calls, between the hours of 9:00 a.m. and 5:00 p.m.; and provided further, that the division shall designate an employee to handle all incoming calls relative to chapter 218 of the acts of 1995 or regulations promulgated under said chapter 218 \$5,254,622

General Fund 60.0%
Highway Fund 40.0%

7006-0030 For the additional costs associated with administration of the division; provided, that the commissioner of insurance

Chap. 194

shall expend funds from this item for the purpose of
maintaining accreditation by the national association of
insurance commissioners \$3,710,371
Division of Insurance Trust Fund 100.0%

Division of Registration.

- 7006-0040 For the operation and administration of the division of
registration; provided, that of the funds appropriated
herein, sufficient monies shall be expended for the
reduction of case backlog at the boards of registration
including, but not limited to, the board of registration in
nursing; provided further, that said division shall provide
a report detailing how the amount appropriated herein is
projected to alleviate the complaint backlog of said
division and said nursing board; and provided further, that
said division shall submit said report to the house and
senate committees on ways and means on or before
February 15, 1999; provided further, that the division shall
at all times employ not less than two hearing officers to
facilitate the processing of cases pending before the
various boards within said division; provided further, that
the position of investigator of radio and television
technicians shall not be subject to chapter 31 of the
General Laws; and provided further, that the division shall
maintain and staff an office in the city of Springfield \$6,058,903
- 7006-0050 For personnel, administrative, computer, equipment,
newsletter and other essential costs of the board of
registration in nursing which shall be in addition to funds
made available to said board in item 7006-0040 \$444,957

Division of Standards.

- 7006-0060 For the operation of the division of standards \$524,106
- 7006-0066 For the support of the division of standard's municipal
inspection efforts pursuant to section 2 OO of chapter 29
of the General Laws; provided, that up to 15 per cent of the
amount appropriated herein may be expended for
administrative costs of said division \$300,000
Local Consumer Inspection Fund 100.0%
- 7006-0067 The division of standards is hereby authorized to expend an
amount not to exceed \$338,000 from revenues received

Chap. 194

from item pricing violations collected through municipal
inspection efforts \$338,000

Department of Telecommunications and Energy.

- 7006-0070 For the operation and administration of the department of telecommunications and energy including the community antenna television division; provided, that notwithstanding the provisions of the second sentence of the first paragraph of section 18 of chapter 25 of the General Laws, the assessments levied pursuant to said first paragraph of said section 18 of said chapter 25 for fiscal year 1999 shall be made at a rate sufficient to produce \$8,528,435; and provided further, that the department shall maintain a toll free consumer access telephone number to facilitate state-wide citizen access on customer service issues in the delivery of cable television services \$8,528,435
- 7006-0080 For the operation of the transportation division \$646,931
- 7006-0090 The department of telecommunications and energy may expend revenues collected up to \$225,000 for the operation of the energy facilities siting commission \$225,000

Alcoholic Beverages Control Commission.

- 7006-0100 For the operation and administration of the alcoholic beverages control commission; provided, that the commission shall take all steps necessary, up to and including amending its regulations, to eliminate duplication of tasks currently performed by said commission which are also performed by the cities and towns including, but not limited to, the performance of investigations \$1,116,900

State Racing Commission.

- 7006-0110 For the operation of the state racing commission \$3,533,729

Board of Registration In Medicine.

- 7006-0130 For the operation and administration of the board of medicine and the committee on acupuncture \$1,418,566
- 7006-0135 For the costs of the physician profile program, so-called; provided, that in the event that expenditures and encumbrances for the purpose of this item exceed the amount appropriated herein, the comptroller shall transfer the amount of

Chap. 194

any such deficiency from item 7006-0130 to this item to ensure that said physician profile program, so-called, is maintained throughout fiscal year 1999 \$247,000

Division of Energy Resources.

- 7006-1000 For the operation and administration of the division of energy resources \$2,567,026
- 7006-1001 For the residential conservation service program pursuant to chapter 465 of the acts of 1980, and the commercial and apartment conservation service program pursuant to section 11A of chapter 25A of the General Laws \$213,518

Department of Economic Development.

- 7007-0100 For the office of the director of the department of economic development \$397,749
- 7007-0102 For the operation and expenses of the Pittsfield economic development authority established by chapter 295 of the acts of 1996, as amended by this act; provided, that said authority shall develop site re-use plans necessary to implement the Pittsfield pilot program and encourage job creation and economic growth as provided in section 23 of said chapter 295; and provided further, that this appropriation shall be subject to a 30 per cent matching funds requirement from local or other public or private sources; prior appropriation continued.
- 7007-0300 For the operation of the Massachusetts office of business development and for marketing and promoting Massachusetts, nationally and internationally, in order to attract and retain targeted businesses and industries; provided, that said office shall maintain business development assistance services at an office to be located at the University of Massachusetts Dartmouth for the purposes of responding to inquiries and providing assistance to businesses seeking to expand in or relocate to southeastern Massachusetts; provided further, that for any and all advertising and marketing programs funded by said office, said office shall report to the house and senate committees on ways and means the number of companies contacting each such program, responding to said advertising, and relocating to the commonwealth; and provided further, that

Chap. 194

not less than \$1,100,000 be expended for the creation and support of manufacturing networks, pursuant to section 424 of this act \$4,179,960

7007-0350 For the operation of the Massachusetts manufacturing partnership; provided that, notwithstanding any general or special law to the contrary, said partnership shall operate pursuant to the oversight provisions established pursuant to section 426 of this act; provided further, that said funds shall be expended to provide assistance to manufacturing extension services, alternative deployment pilot projects, total quality management projects, technology access programs, shop floor management projects, and other technology deployment programs; and provided further, that said partnership shall provide written notification to the house and senate committees on ways and means within ten days of receiving confirmation of any federal funding \$750,000

7007-0400 For economic development grants to regional and special purpose non-profit entities to be administered by the Massachusetts office of business development; provided, that \$150,000 shall be expended for purposes of a ship building technology institute through the Massachusetts maritime academy; provided further, that not less than \$100,000 shall be expended for the center for women and enterprise; provided further, that not less than \$350,000 shall be obligated to the western Massachusetts precision institute for year two of a three year grant to expand the machinist training program and to extend such services into central Massachusetts; provided further, that not less than \$100,000 shall be expended for the initiative known as the I-495/campaign for shared solutions, so-called; provided further, that no town or municipality's zoning or planing bylaws shall be superseded by any action of the I-495 campaign of shared solutions; provided further, that not less than \$250,000 shall be expended for the Massachusetts ventures corporation in the pioneer valley region; provided further, that not less than \$275,000 shall be expended for a grant to the south shore tri-town development corporation for the implementation of the reuse plan for the former naval air station at South

Weymouth; provided further, that not less than \$200,000 shall be expended for the center for advanced fiberoptic applications in Southbridge contingent upon receipt of matching federal funds; provided further, that not less than \$100,000 shall be expended for the Massachusetts council for quality; provided further, that said funds for said council shall be subject to a 100 per cent matching requirement from local or other public or private sources; provided further, that not less than \$60,000 shall be expended for year two of a three grant for the economic development activities of the Blackstone Valley development corporation; provided further, that not less than \$125,000 shall be obligated as final payment for the support of programs operated by a farm workers' organization serving low income persons and the Hispanic population of western Massachusetts contingent on submission of a plan to the house and senate committees on ways and means, not later than December 1, 1998, detailing how said organization's funding will be maintained in fiscal year 2000; provided further, that not less than \$100,000 shall be expended for the Cape Cod Economic Development Council, Inc. of Barnstable county; provided further, that not less than \$50,000 shall be expended for the North Adams Venture Center; provided further, that not less than \$50,000 shall be expended for the purpose of a neighborhood network neighborhood center in the city of Worcester to provide economic stability to the downtown areas; provided further, that not less than \$440,000 shall be expended for minority economic and community development public and non-profit grants to community-based organizations for implementation within minority communities; and provided further, that said office of business development shall submit to the house and senate committees on ways and means a schedule of grants distributed to said community-based organizations from this item no later than October 1, 1998 \$2,350,000

7007-0500 For the operation and maintenance of the Massachusetts Biotechnology Research Institute for the purpose of promoting the commercialization of new, academic-based

Chap. 194

	research and development, and raising the scientific awareness of the communities of the commonwealth	\$1,000,000
7007-0515	For a grant to operate the Devens enterprise commission; provided that, said commission shall collaborate with the department of economic development on a plan to render the commission financially self-sufficient by July 1, 2001; and provided further, that said plan shall be submitted to the house and senate committees on ways and means and the secretary of administration and finance not later than October 1, 1998	\$230,000
7007-0800	For a grant for the state match for a small business development center; provided, that no funds shall be expended from this item until such time as the United States small business administration has made a payment or executed a contract with the University of Massachusetts at Amherst for the operation of said center; provided further, that the funds expended from this item shall not exceed 25 per cent of the gross operating cost of said center; and provided further, that quarterly expenditure reports shall be filed with the house and senate committees on ways and means.	\$896,448
7007-0900	For the operation and administration of the office of travel and tourism; provided, that for the purposes of developing the request for proposals, so-called, for any marketing and advertising contract, and for overseeing and evaluating said contract, the office shall implement performance-based standards which shall include, but not be limited to, a correlation between compensation and outcomes; provided further, that said performance-based request for proposals and subsequently awarded contracts shall be submitted to the house and senate committees on ways and means and the joint committee on commerce and labor in conjunction with the office's explicit expectations, including quantifiable measures, for any marketing and advertising program undertaken with funds appropriated herein; provided further, that not less \$650,000 shall be expended for the operation of the Massachusetts film office; and provided further, that not less than \$200,000 shall be expended for the expenses of the Massachusetts international trade council	\$11,220,786
	Massachusetts Tourism Fund	100.0%

7007-0950 For grants to public and private non-profit local and regional organizations to be awarded by the Massachusetts office of travel and tourism; provided, that not less than \$200,000 shall be expended for the Baystate games, so-called; provided further, that not less than \$250,000 shall be expended for costs incurred by the Massachusetts Sports Partnership, Inc; provided further, that notwithstanding the provisions of any general or special law to the contrary, \$250,000 shall be transferred from this item to the Massachusetts office of business development for south coast regional tourism and economic development; provided further, that not less than \$100,000 shall be expended for the Freedom Trail Foundation; provided further, that not less than \$30,000 shall be expended for the Berkshire visitor bureau to be used for the promotion of Pittsfield's summerfest, so- called; provided further, that not less than \$25,000 shall be expended for the heritage Cape Cod program, so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, not less than \$25,000 of the amount appropriated herein shall be expended for the purposes of section 159 of chapter 43 of the acts of 1997; provided further, that not less than \$25,000 shall be expended for the sports museum of New England at Lowell, so-called, for the support of and the expansion of educational programs for children; provided further, that not less than \$56,704 shall be expended for the days of awareness of Wampanoag history at Plymouth plantation; provided further, that not less than \$60,000 shall be expended for the purposes of jointly maintaining the Plymouth rest area, so-called, by the Cape Cod chamber of commerce and the Plymouth County Development Council; provided further, that not less than \$20,000 shall be expended for the purpose of maintaining the Yarmouth rest area, so-called, by the Yarmouth chamber of commerce; provided further, that not less than \$30,000 shall be expended for the purposes of maintaining the Bourne rest area, so-called, by the Cape Cod chamber of commerce; provided further, that not less than \$50,000 shall be expended for the Freedom's Way Association, so-called; provided further, that not less

than \$50,000 shall be expended for the Merrimack valley convention and visitors bureau to be used for the marketing and promotion of the Tsongas arena and LeLacheur park; provided further, that not less than \$50,000 shall be provided in matching grants to the town of Hull for the purpose of one-time costs involved with increasing awareness of and improving tourist attractions, recreation facilities and coastal resources in the town concurrent with supporting the effort to convince the national lighthouse museum to establish its permanent site in said town, so long as none of the funds utilized by said town to qualify for matching funds originates from assistance provided through a local tourist council; provided further, that not less than \$30,000 shall be expended for the continuing operation of the Mansfield tourist information center; provided further, that not less than \$25,000 shall be expended for the continuing operation of the Swansea tourist information center; provided further that not less than \$50,000 shall be expended for the expenses of the Massachusetts international festival of the arts; provided further, not less than \$100,000 shall be expended for the expenses of Destination Plymouth, so-called; and provided further, that not less than \$650,000 shall be expended for innovative approaches to advertising, promoting, and generating tourism in the commonwealth; provided, that said funds shall be awarded based upon competitive applications from such organizations; provided further, said grants may support the services of tourist information centers, so-called; provided further, that funds so awarded shall not replace or supplant expenditures made by such organizations from items 7007-0900 or 7007-1000 or other funding sources; and provided further, that said grants shall be awarded at the discretion of the director of said office after consultation with the director of the department of economic development \$2,076,704

Massachusetts Tourism Fund 100.0%

7007-1000 For assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; provided that, notwithstanding the provisions of any general or special

Chap. 194

	law, regulation or rule to the contrary, each of said councils may expend an amount not to exceed 20 per cent of the grant it receives herein for the cost of administrative services	\$6,316,308
	Massachusetts Tourism Fund	100.0%
7007-1200	For a program to create and maintain a more favorable and responsive environment for the attraction and retention of technology-intensive clusters for the commonwealth; provided, that clusters may be characterized by technological or market focus, geographic proximity, or other shared interests; provided further, that these cluster activities shall be deemed to be the exercise of an essential governmental function intended to (1) foster increased collaboration among cluster organizations; (2) facilitate improved communications between the commonwealth and cluster organizations; (3) identify and respond to challenges and opportunities related to cluster organizations; (4) enhance the competitive position of cluster firms; (5) reduce the costs of doing business in the commonwealth through one or more purchasing cooperatives; and (6) generally improve the perception of the value and benefits of doing business in the commonwealth; provided further, that amounts appropriated herein shall be expended to the Massachusetts Technology Park Corporation to be held and applied thereby and administered through its Massachusetts technology collaborative; provided further, that said corporation shall establish an independent advisory panel to advise said corporation relative to the most effective application of funds appropriated herein; and provided further, that the executive director shall file a report with the house and senate committees on science and technology and the house and senate committees on ways and means detailing the activities undertaken with the funds appropriated herein by January 15, 1999	\$1,200,000
7007-1300	For the operation and administration of the Massachusetts international trade council; provided, that not less than \$165,000 shall be expended for an international trade assistance center in Fall River	\$997,312
	Massachusetts Tourism Fund	100.0%

Chap. 194

- 7007-1500 For the operation and administration of the state office of minority and women business assistance \$556,909
- 7007-2215 For the second year of a state matching grant to fund the council of state government's Yankee Trader Institute, authorized pursuant to section 59 of chapter 120 of the acts of 1995; prior appropriation continued \$30,000

Department of Education.

- 7010-0005 For the operation of the department of education; provided, that not less than \$100,000 shall be expended for staff and support services for the education reform and review commission established pursuant to the acts of 1993 \$9,452,029
- 7010-0012 For grants to cities, towns or regional school districts for payments of certain costs incurred under the program for the elimination of racial imbalance; provided, that grants to a city, town or regional school district shall be limited to actual and specifically documented incremental costs including those costs pursuant to chapter 71B of the General Laws incurred as a direct consequence of participation in the program whenever the reimbursements requested by such city, town or regional school district exceed the level of reimbursement received in fiscal year 1977; and provided further, that the division of elementary, secondary, and occupational education shall, through a competitive procurement process, contract with qualified school transportation business enterprises \$12,371,328
- Local Aid Fund 100.0%
- 7010-0016 For the attracting excellence to teaching program established pursuant to section 19A of chapter 15A of the General Laws; provided, that not less than \$300,000 shall be expended for grants to new teachers; provided further, that teachers who have previously received funds from this item shall not be disqualified by the amendment to said program contained in said section 58; and provided further, that the department of education shall aggressively advertise the availability of said program to prospective applicants, prior appropriation continued \$600,000
- Local Aid Fund 100.0%
- 7010-0017 For grants to charter schools; provided, that the board of

Chap. 194

education may award grants to charter schools established pursuant to section 89 of chapter 71 of the General Laws; provided further, that such grants shall be awarded to support costs associated with planning and development of such schools and for the leasing or construction of school facilities; provided further, that charter schools shall submit requests for such grants to the board of education; and provided further, that grants shall be awarded pursuant to guidelines developed by said board \$2,847,290

Local Aid Fund 100.0%

7010-0042 For grants to cities, towns or regional school districts for the cost of providing magnet educational programs in accordance with the provisions of sections 37I and 37J of chapter 71 of the General Laws; provided, that any payment made under this appropriation shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that any portion of this appropriation may be expended by the board of education to purchase the services of magnet educational programs; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act which would cause the commonwealth's obligation for the purposes of this item to exceed the amount appropriated herein \$4,800,000

Local Aid Fund 100.0%

7010-0043 For grants for the equal education improvement fund for cities, towns or regional school districts pursuant to the provisions of section 1I of chapter 15 of the General Laws; provided, that notwithstanding the provisions of said section 1I or section 37D of chapter 71 of the General Laws, pupils qualifying for funding under the Equal Education Improvement Fund shall also include those of Hispanic and southeast Asian origin; provided further, that any payment made under this appropriation shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be

Chap. 194

expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding the provisions of any general or special law to the contrary; and provided further, that no payments or approvals shall be given or made on or after the effective date of this act which would cause the commonwealth's obligation for the purposes of this item to exceed the amount appropriated herein \$8,448,000

Local Aid Fund 100.0%

7027-0016 For matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for such programs in consultation with the department of labor and workforce development; provided further, that any funds distributed from this item to cities, towns or regional school districts shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that each grant awarded herein shall be matched by the recipient from local, federal or private funds; provided further, that the board of education may determine the percentage match required on an individual grant basis; provided further, that not more than \$450,000 shall be made available for the state's matching grant for the CS-squared program, so-called, at the Corporation for Business, Work and Learning; and provided further, that not less than \$1,124,950 shall be made available to Jobs for Bay State Graduates, Inc. for the purpose of school-to-work activities. . . . \$1,749,000

Local Aid Fund 100.0%

7027-1000 For the state matching requirement of the partnerships advancing learning mathematics and science and the community service projects \$2,057,621

Local Aid Fund 100.0%

7028-0031 For the expenses of school age children in institutional schools pursuant to section 12 of chapter 71B of the General Laws; provided, that the department is authorized to provide special education services to eligible inmates in county houses of correction \$9,339,171

Chap. 194

	Local Aid Fund	100.0%
7028-0302	For the educational expenses of certain school aged children with special needs attending schools pursuant to the provisions of section 10 of chapter 71B of the General Laws, for the educational expenses of school age children with special needs attending day or residential programs who have no father, mother or guardian living in the commonwealth and for expenses relating to the provision of special education to certain children transferred by other state agencies to the department of education; provided, that no payments or approvals shall be given or made on or after the effective date of this act which would cause the commonwealth's obligation for the purposes of this item to exceed the amount appropriated herein	\$3,829,424
	Local Aid Fund	100.0%
7030-1000	For grants to cities, towns, regional school districts, educational collaboratives, head start programs and licensed day care providers for early care and education programs, pursuant to the provisions of section 54 of chapter 15 of the General Laws; provided, that any payment made under any such grant with a school district shall be deposited with the treasurer of such city, town or regional school district and held as a separate account and shall be expended by the school committee of such city, town or regional school district without municipal appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that notwithstanding the provisions of said section 54, of said chapter 15 school districts and head start agencies that served as lead agencies in fiscal year 1998 shall receive the same amounts, subject to the same conditions as in said fiscal year, and, in any city or town in which there was only one lead agency in fiscal year 1995, such lead agency shall serve as lead agency to submit proposals pursuant to said section 54 of said chapter 15; provided further, that in addition to services provided by head start pursuant to this item in fiscal year 1998, not less than an additional \$2,000,000 shall be made available for services provided by head start agencies pursuant to the provisions of said section 54 of said chapter 15 in fiscal year 1999; provided	

further, that the department shall not enter into any grants that would cause annualized costs for this item to exceed the amount appropriated herein; provided further, that the amount by which the funds appropriated in this item exceed the amount appropriated in item 7030-1000 of chapter 60 of the acts of 1994 shall be used to provide services to the children of working parents; provided further, that in allocating said funds, the board of education shall give priority consideration to three and four-year-old children in cities and towns where high concentrations of low income working families reside; provided further, that not less than one-third of the total slots funded by said amount by which the funds appropriated in this item exceed the amounts appropriated in item 7030-1000 of said chapter 60 shall be for full-day, full-year care that meets the needs of working parents; provided further, that \$250,000 shall be made available from this item for a pilot program that involves students from the University of Massachusetts at Lowell and Community Teamwork, Inc. in the provision of child care services; provided further, that not more than \$250,000 shall be made available for costs associated with the consolidation of the Quincy Community Action Program, Inc. head start program; provided further, that in addition to funds provided to family networks, so-called pursuant to this item in fiscal year 1998, not more than an additional \$1,000,000 shall be made available for family networks; provided further, that not less than \$1,500,000 shall be expended for early intervention individual tutorial literacy programs designed as a pre-special education referral and short term intervention for children who are at risk of failing to read in the first grade; provided further, that such programs shall be research based with proven long term results, including identifying students in need of additional help not later than mid-first grade, providing ongoing training and support to program teachers and including ongoing documentation and evaluation of results; and provided further, that \$568,768 of the amount appropriated herein may be expended for the administration of community partnerships for children and for the administration of family networks \$85,500,000

Chap. 194

	Local Aid Fund	100.0%	
7030-1500	For grants to head start programs		\$6,829,048
	Local Aid Fund	100.0%	
7030-2000	For the training and for dropout prevention grants and basic skills remediation programs to cities, towns, regional school districts and educational collaboratives programs; provided, that 25 per cent of the funds available for dropout prevention programs shall be awarded to school districts that demonstrate a marked increase in the percentage of students who are graduating from public high school programs; provided further, that any funds distributed from this item shall be deposited with the treasurer of such city, town, regional school district or educational collaborative without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that school councils receiving said grants shall be responsible for spending them in accordance with their school improvement plans as provided in section 59C of chapter 71 of the General Laws; provided further, that \$1,475,988 shall be allocated to basic skills remediation programs for students in grades one through nine; provided further, that not less than \$930,000 shall be allocated to education reform restructuring network grants, so-called; and provided further, that \$89,248 shall be earmarked for the expansion of the Boston-based Comprehensive School Aged Parenting Program, Inc. to accommodate an increased caseload pursuant to chapter 5 of the acts of 1995. . . .		\$3,735,968
	Local Aid Fund	100.0%	
7032-0500	For grants to cities and towns and regional school districts for school-based comprehensive health education and human services in schools; provided, that any funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended without further appropriation by the school committee; provided further, that not more than 1 per cent of the amount appropriated herein shall be expended for administrative costs; provided further, that \$1,400,000 shall be expended on the school linked services program; provided further, that the		

commissioner of education shall file a report on the distribution of all funds appropriated herein with the joint committee on education and the house and senate committees on ways and means not later than October 15, 1998; provided further, that not more than \$500,000 shall be expended for teen dating violence prevention; provided further, that not less than \$37,500 shall be expended for the North Quabbin Domestic Violence Prevention Program; and provided further, that not less than \$750,000 shall be expended for statewide programs that provide suicide prevention outreach to gay and lesbian youths \$11,132,258

Health Protection Fund 100.0%

7035-0002 For grants to provide and strengthen adult basic education services, including reading, writing and mathematics, to a diverse network of organizations which have demonstrated commitment and effectiveness in the provision of such services, that are selected competitively by the department of education; provided, that said department shall expend a portion of the fiscal year 1999 increase to this item to establish adult basic education programs in those community colleges that currently do not receive appropriate levels of funding from said department and that demonstrate strong institutional commitment to sponsoring an effective program of adult basic education; provided further, that said department shall provide additional funding to expand adult basic education programs presently funded in community colleges that have demonstrated effective performance and strong institutional commitment to such programs and the students served by such programs; provided further, that such grants shall also support the successful transition of students from other adult basic education programs to community college certificate and degree granting programs; provided further, that adult basic education grants made by said department shall be contingent upon satisfactory levels of performance as defined and determined by said department; provided further, that in no case shall grants be considered an entitlement to a grant recipient; provided further, that said department shall consult with the community colleges and other service

providers in establishing and implementing content, performance and professional standards for adult basic education programs and services; provided further, that not less than \$100,000 shall be expended for programs including, but not limited to, adult basic education and English as a second language provided by the NDEC educational program, so-called; provided further, that \$30,000 shall be expended for the Attleboro Literacy Center; provided further, that \$30,000 shall be expended for the Valley Opportunity Council in the Pioneer Valley; provided further, that not less than \$25,000 shall be expended for the purpose of developing adult blind literacy training; provided further, that not less than \$75,000 shall be made available to Massasoit Community College to create a pre-employment skills training program; provided further, that \$250,000 shall be expended for the Methuen Adult Learning Center; and provided further, that not more than 10 per cent of the funds appropriated herein may be expended for nongrant purposes \$33,626,751

Local Aid Fund 100.0%

7035-0003 For allocation to Training Innovations, Inc. to develop a Skill Training Center in the city of Cambridge to work directly with students enrolled in the Cambridge public schools, undertrained workers and interested businesses \$225,000

7035-0004 For reimbursements to cities, towns, regional school districts, and independent vocational schools for certain expenditures for transportation of pupils pursuant to the provisions of section 11 of chapter 15 of the General Laws, sections 7A, 7B and 37D of chapter 71 of the General Laws, section 8 of chapter 71A of the General Laws, section 14 of chapter 71B of the General Laws and section 8A of chapter 74 of the General Laws; provided, that of the amount appropriated herein, not less than \$1,500,000 shall be obligated for the implementation of chapter 663 of the acts of 1983; provided further, that any city, town or regional school district or independent vocational school which has not accepted the provisions of said chapter 663 shall be ineligible for any reimbursement of costs incurred during fiscal year 1998 under this item or for reimbursement of such costs under any of the provisions of the General Laws

Chap. 194

	referred to herein; and provided further, that notwithstanding the provisions of any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein	\$57,600,000
	Local Aid Fund	100.0%
7035-0006	For reimbursements to regional school districts for the transportation of pupils; provided, that notwithstanding the provisions of any general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein; and provided further, that the amount appropriated herein shall be used toward the full funding of this item, as determined by the department of education, by fiscal year 2001	\$33,991,451
	Local Aid Fund	100.0%
7051-0015	For the administration of the emergency food assistance program	\$1,000,000
	Local Aid Fund	100.0%
7052-0003	For school building assistance grants and reimbursements for projects to eliminate racial imbalance under the provisions of chapter 645 of the acts of 1948 for first annual payments on school projects; provided, that the aggregate amount of first annual estimated payments for school projects approved by the board of education under the provisions of said chapter 645 shall not exceed \$10,254,854; provided further, that projects on the fiscal year 1998 priority lists ranked through number seven, inclusive, shall be given priority before any other projects; and provided further, that a report shall be filed semiannually by the board of education with the house and senate committees on ways and means regarding funding commitments pursuant to the provisions of this item	\$10,912,208
	Local Aid Fund	100.0%
7052-0004	For school building assistance grants and reimbursements for cities and towns not subject to court-ordered or board of education racial imbalance plans under the provisions of chapter 645 of the acts 1948 for first annual payments on school projects; provided, that the aggregate amount of first annual estimated payments for school projects approved by the board of education under the provisions of	

Chap. 194

	said chapter 645 in the fiscal year ending June 30, 1999 shall not exceed \$33,782,908; provided further, that projects on the fiscal year 1998 priority lists ranked through number 115, inclusive, shall be given priority before any other projects; and provided further, that a report shall be filed semiannually by the board of education with the house and senate committees on ways and means regarding funding commitments pursuant to the provisions of this item	\$23,160,145
	Local Aid Fund	100.0%
7052-0005	For grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter 645 of the acts of 1948 for annual payments on the accounts of school projects for which first annual payments have been made	\$200,779,144
	Local Aid Fund	100.0%
7052-0006	For grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter 645 of the acts of 1948 for: (a) educational, engineering and architectural services for school districts; (b) surveys made of school building needs and conditions; (c) matching stabilization fund payments; (d) costs of leasing buildings for vocational programs and originally equipping and furnishing such buildings for vocational programs; and (e) payments associated with admission to a regional school district	\$276,652
	Local Aid Fund	100.0%
7052-0007	For grants and reimbursements to cities, towns, regional school districts and counties for the purposes of the school building assistance program under the provisions of chapter 645 of the acts of 1948; provided, that of the amount appropriated herein, the board of education may authorize one-time payments of the total reimbursement due to cities and towns for school buildings that are structurally unsound or otherwise in a condition jeopardizing the safety of school children	\$2,000,000
	Local Aid Fund	100.0%
7053-1909	For reimbursements to cities and towns for partial assistance in the furnishing of lunches to school children, including	

Chap. 194

partial assistance in the furnishing of lunches to school children as authorized by chapter 538 of the acts of 1951 and for supplementing funds allocated for the special milk program; provided, that notwithstanding the provisions of any general or special law to the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act, and in the regulations implementing said act \$5,426,986

Local Aid Fund 100.0%

7053-1925 For the school breakfast program; provided, that of the sum appropriated herein, not less than \$300,000 shall be expended for the summer food service outreach program and not less than \$200,000 shall be expended for the school breakfast outreach program, including reimbursement of municipal expenses, prior appropriation continued; provided, that a grant supplement of 15 cents per lunch served and five cents per snack and breakfast served shall be paid to local summer food service providers \$1,077,791

Local Aid Fund 100.0%

7053-1927 For a pilot program to promote a universal feeding approach for school breakfasts whereby all children in schools receiving grants under said program shall be provided nutritious breakfasts without regard to their eligibility to receive free or reduced-price breakfasts as authorized under the federally funded school breakfast program, so-called; provided, that participation shall be limited to those elementary schools mandated to serve breakfast pursuant to section 1C of chapter 69 of the General Laws; provided further, that the department of education shall award grants under said pilot program by soliciting proposals from school districts eligible to participate in said pilot program; provided further, that said department shall make geographical distribution of said pilot grants a factor in its grant decisions; provided further, that said department shall attempt to have different models represented by the selected pilot programs including, but not limited to, making breakfast part of the school day, improved transportation to the breakfast program and eliminating

administrative barriers; provided further, that such grants shall only be awarded to school districts which can reasonably demonstrate their intent to increase participation in said program by a minimum of 15 per cent over current levels during a two-year period; provided further, that said department shall require sufficient reporting from each grantee to measure the success of said pilot program; provided further, that said department shall select school sites for pilot programs authorized by this item not later than November 15, 1998 and shall report to the house and senate committees on ways and means on the preliminary results of such grants no later than March 31, 1999; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services. \$500,000
Local Aid Fund 100.0%

7053-1928 For grants which encourage school districts to increase participation in the federally-funded school breakfast program, so-called, by demonstrating innovative and replicable ways to remove barriers to increased participation in said program; provided, that such grants shall be prioritized to districts with high levels of students who are eligible for free or reduced priced meals; provided further, that the department of education shall, in developing criteria for selection of such grants, consider how each proposal attracts students of all income levels, increases awareness of said program, addresses time and schedule conflicts, examines space problems, addresses supervision issues, examines transportation schedules, promotes varied and nutritious menus, promotes the relationship between breakfast, nutrition and serious academic learning and involves all school constituencies; provided further, that such grants shall only be awarded to school districts which can reasonably demonstrate their intent to increase participation in said program by a minimum of 10 per cent over current levels during a two-year period; provided further, that said department shall require sufficient reporting from each grantee to measure the success of

Chap. 194

such grant program; provided further, that said department shall award grants authorized by this item not later than November 15, 1998 and shall report to the house and senate committees on ways and means on the preliminary results of such grants not later than March 31, 1999; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services \$1,000,000

Local Aid Fund 100.0%

7053-1929 For a grant program to improve summer food programs during the summer school vacation period; provided, that priority shall be given to extending such programs for the full summer vacation period and promoting increased participation in such programs; provided further, that the department of education shall solicit proposals from returning sponsors and school food authorities in time for implementation of such grant program during the summer of 1999; provided further, that such grants shall only be awarded to sponsors who can demonstrate their intent to offer full summer programs or increase participation; provided further, that said department shall require sufficient reporting from each grantee to measure the success of such grant program; provided further, that said department shall select grantees for the program authorized by this item not later than March 30, 1999 and shall report to the house and senate committees on ways and means on the projected impact of these grants not later than April 30, 1999; provided further, that nothing herein shall give rise to enforceable legal rights in any party or an enforceable entitlement to services; and provided further, that nothing stated herein shall be construed as giving rise to enforceable legal rights or enforceable entitlement to any services. \$500,000

Local Aid Fund 100.0%

7053-1940 For a payment to the city of Northampton; provided, that said city shall file with the house and senate committees on ways and means a report, together with recommendations

for legislation, concerning its negotiations with the Clarke School, so-called, for a program of payments in lieu of taxes or other compensation to be paid by said school to said city for education costs incurred by said city on behalf of said school; and provided further, that upon submission of such report, an amount not to exceed the appropriation provided herein shall be obligated by the comptroller to said city \$535,000

Local Aid Fund 100.0%

7061-0007 For one-time, non-recurring payments to certain cities, towns and regional school districts to supplement current fiscal year chapter 70 distributions affected by labor market area reclassifications, so-called; provided, that no funds distributed from this item shall be considered base aid nor used in the calculation of minimum required local contribution for fiscal year 2000 or any other fiscal year; provided further, that \$1,782,919 shall be made available to the city of Boston; provided further, that \$575,844 shall be made available to the town of Middleborough; provided further, that \$337,331 shall be made available to the city of Lynn; provided further, that \$215,256 shall be made available to the town of Lakeville; provided further, that \$191,927 shall be made available to the city of Somerville; provided further, that \$177,301 shall be made available to the city of Quincy; provided further, that \$169,814 shall be made available to the town of Plymouth; provided further, that \$145,092 shall be made available to the city of Chelsea; provided further, that \$143,514 shall be made available to the city of Revere; provided further, that \$138,581 shall be made available to the city of Attleborough; provided further, that \$128,928 shall be made available to the city of Malden; provided further, that \$120,617 shall be made available to the city of Everett; provided further, that \$120,056 shall be made available to town of Weymouth; provided further, that \$106,680 shall be made available to the town of Randolph; provided further, that \$102,904 shall be made available to the town of Amherst; provided further, that \$100,090 shall be made available to the city of Marlborough; provided further, that \$98,059 shall be made available to the town of Franklin;

provided further, that \$87,335 shall be made available to the town of Marshfield; provided further, that \$85,762 shall be made available to the town of Reading; provided further, that \$83,644 shall be made available to the town of North Attleborough; provided further, that \$82,696 shall be made available to the town of Mansfield; provided further, that \$78,661 shall be made available to the town of Plympton; provided further, that \$76,568 shall be made available to the town of Stoughton; provided further, that \$63,429 shall be made available to the town of Rockland; provided further, that \$60,848 shall be made available to the town of Walpole; provided further, that \$60,324 shall be made available to the town of Foxborough; provided further, that \$55,709 shall be made available to the town of Bellingham; provided further, that \$53,903 shall be made available to the town of Norton; provided further, that \$50,247 shall be made available to the town of Medway; provided further, that \$49,545 shall be made available to the town of Winthrop; provided further, that \$42,859 shall be made available to the town of Carver; provided further, that \$42,136 shall be made available to the town of Hanover; provided further, that \$39,914 shall be made available to the town of Hull; provided further, that \$38,403 shall be made available to the town of Pembroke; provided further, that \$37,072 shall be made available to the town of Holliston; provided further, that \$36,723 shall be made available to the town of Ashland; provided further, that \$36,617 shall be made available to the town of Holbrook; provided further, that \$34,820 shall be made available to the town of Maynard; provided further, that \$34,574 shall be made available to the town of Easton; provided further, that \$34,249 shall be made available to the town of Bridgewater; provided further, that \$31,978 shall be made available to the town of North Reading; provided further, that \$31,733 shall be made available to the town of Shutesbury; provided further, that \$28,836 shall be made available to the town of Wrentham; provided further, that \$25,431 shall be made available to the town of Northbridge; provided further, that \$25,053 shall be made available to the town of Millis; provided further, that

\$23,223 shall be made available to the town of Kingston; provided further, that \$22,693 shall be made available to the town of Billerica; provided further, that \$22,690 shall be made available to the town of East Bridgewater; provided further, that \$22,115 shall be made available to the town of Hopedale; provided further, that \$21,682 shall be made available to the town of Shrewsbury; provided further, that \$21,264 shall be made available to the town of Mashpee; provided further, that \$19,443 shall be made available to the town of Norfolk; provided further, that \$18,778 shall be made available to the town of Shirley; provided further, that \$17,959 shall be made available to the town of Leicester; provided further, that \$17,672 shall be made available to the town of Leverett; provided further, that \$15,426 shall be made available to town of Oxford; provided further, that \$14,948 shall be made available to town of Boxford; provided further, that \$14,416 shall be made available to the town of Topsfield; provided further, that \$13,667 shall be made available to the town of Grafton; provided further, that \$13,637 shall be made available to the town of Uxbridge; provided further, that \$13,437 shall be made available to the town of Douglas; provided further, that \$12,614 shall be made available to the town of Millbury; provided further, that \$11,229 shall be made available to the town of Tewksbury; provided further, that \$10,888 shall be made available to the town of West Boylston; provided further, that \$10,382 shall be made available to the town of Sunderland; provided further, that \$9,614 shall be made available to the town of North Brookfield; provided further, that \$8,555 shall be made available to the town of Dracut; provided further, that \$8,542 shall be made available to the town of Westford; provided further, that \$6,658 shall be made available to the town of Sutton; provided further, that \$6,533 shall be made available to the town of Middleton; provided further, that \$6,496 shall be made available to the town of Halifax; provided further, that \$5,731 shall be made available to the town of Lunenburg; provided further, that \$4,021 shall be made available to the town of Ashfield; provided further, that \$2,215 shall be made

available to the town of Hardwick; provided further, that \$1,709 shall be made available to the town of Clarksburg; provided further, that \$1,362 shall be made available to the town of Spencer; provided further, that \$862 shall be made available to the town of Granville; provided further, that \$336 shall be made available to the town of New Ashford; provided further, that \$193 shall be made available to the town of Millville; provided further, that \$173 shall be made available to the town of Becket; provided further, that \$48 shall be made available to the town of Cummington; provided further, that \$33 shall be made available to the town of Charlemont; provided further, that \$21 shall be made available to the town of Windsor; provided further, that \$3 shall be made available to the town of Stoneham; provided further, that \$921,295 shall be made available to Bridgewater/Raynham Regional School District; provided further, that \$135,669 shall be made available to the Groton/Dunstable Regional School District; provided further, that \$102,032 shall be made available to North Middlesex Regional School District; provided further, that \$84,667 shall be made available to Amherst/Pelham Regional School District; provided further, that \$44,433 shall be made available to King Philip Regional School District; provided further, that \$43,970 shall be made available to the Silver Lake Regional School District; provided further, that \$39,240 shall be made available to Whitman/Hanson Regional School District; provided further, that \$34,100 shall be made available to Tri County Regional School District; provided further, that \$31,577 shall be made available to Blackstone Valley Regional School District; provided further, that \$29,789 shall be made available to Dudley/Charlton Regional School District; provided further, that \$29,177 shall be made available to Quabbin Regional School District; provided further, that \$27,154 shall be made available to Northeast Metropolitan Regional School District; provided further, that \$24,425 shall be made available to Southeastern Regional School District; provided further, that \$20,439 shall be made available to Spencer/East Brookfield Regional School District; provided further, that

\$18,837 shall be made available to Nashoba Regional School District; provided further, that \$17,428 shall be made available to Central Berkshire Regional School District; provided further, that \$17,359 shall be made available to Mendon/Upton Regional School District; provided further, that \$11,482 shall be made available to South Shore Regional School District; provided further, that \$7,130 shall be made available to Wachusett Regional School District; provided further, that \$6,281 shall be made available to Southern Worcester Regional School District; provided further, that \$3,507 shall be made available to Minuteman Regional School District; provided further, that \$2,173 shall be made available to Ashburnham/Westminster Regional School District; provided further, that \$1,460 shall be made available to Nashoba Valley Regional School District; and provided further, that \$592 shall be made available to Cape Cod Regional School District \$8,119,466

Local Aid Fund 100.0%

7061-0008 For school aid to cities, towns, regional school districts, counties maintaining agricultural schools and independent vocational schools to be distributed pursuant to the provisions of chapters 70 and 76 of the General Laws; provided, that notwithstanding the provisions of section 3 of this act, each school district which receives aid from this item in fiscal year 1999 shall expend from such aid not less than \$100 per student on professional development expenditures as defined in regulations of the department of education; provided further, that such \$100 per student shall include \$75 in such aid previously made available in chapter 43 of the acts of 1997; provided further, that \$150,000 of the funds allocated from this item to the city of Lawrence by said section 3 shall be transferred to the University of Massachusetts at Lowell for its college preparation program; provided further, that \$42,570,481 shall be transferred from item 7061-9100 and credited to this item; provided further, that said \$42,570,481 shall not be subject to the provisions of subsection (b) of section 12 of chapter 70 of the General Laws; provided further, that notwithstanding the provisions of any general or special

Chap. 194

	law to the contrary, no school district shall receive less than \$100 per student in chapter 70 aid, so-called, in fiscal year 1999; provided further, that said aid shall be in addition to the \$75 per student aid authorized and made available in item 7061-0008 of section 2 of chapter 43 of the acts of 1997; and provided further, that each such district shall report to said department the professional development activities funded by such expenditures and such department shall make a determination as to whether such amounts were expended for professional development activities	\$2,515,444,069
	Local Aid Fund	100.0%
7061-0009	For reimbursement to cities, towns and regional school districts of public school tuition of any school age child placed in a school district other than a home town by, or under the auspices of, the department of transitional assistance or the department of social services pursuant to section 96 of chapter 71 of the acts of 1993; provided, that such reimbursement shall constitute complete satisfaction of the commonwealth's obligation for tuition payments to cities, towns or regional school districts for school aged children placed by, or under the control of, the department of transitional assistance or the department of social services under the provisions of sections 7 and 9 of chapter 76 of the General Laws, other than in a home town	\$17,082,983
	Local Aid Fund	100.0%
7061-0011	For a reserve to: (1) meet unanticipated or extraordinary increases in the minimum required local contribution of a municipality as calculated pursuant to the requirements of this act and chapter 70 of the General Laws, in conjunction with unanticipated or extraordinary decreases in cherry sheet aid, so-called, for such municipalities; provided, that a municipality seeking funds hereunder shall apply for a waiver from the department of revenue pursuant to section 293; provided further, that the commissioner of revenue shall issue a finding concerning such waiver applications within 30 days of the receipt thereof, after consulting with the commissioner of education, regarding the merits of such application; (2) meet expenses	

associated with extraordinary increases in enrollment calculated on a percentage basis for such municipalities; and (3) to assist regional school districts in offsetting unanticipated funding losses resulting from a member municipality's extraordinary increase or decrease in its minimum required local contribution; provided, however, that priority shall be granted to member municipalities of regional and vocational regional school districts; provided further, that notwithstanding the provisions of any general or special law to the contrary, assistance funded by this item shall only be available on a one-time nonrecurring basis; provided further, that no funds distributed from this item to a municipality shall be considered base aid nor used in the calculation of the minimum required local contribution for fiscal year 2000; provided further, that \$750,000 shall be made available to the town of Milton; and provided further, that \$100,000 shall be made available to the town of Avon \$5,000,000

Local Aid Fund 100.0%

7061-0012 For noneducational costs of residential school programs for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter 71B of the General Laws; provided, that subject to rules and regulations promulgated by the commissioner of education, each city and town shall verify to the commonwealth the cost thereof and, upon approval of the commissioner, the treasurer may make such payments directly to the service provider for services provided on or after July 1, 1998; provided further, that not more than \$6,000,000 shall be used to continue and expand voluntary residential placement prevention programs between the department of education and other departments within the executive office of health and human services that develop community-based support services for children and their families; provided further, that the amount spent for a particular student shall not exceed the amount of tuition funds allocated for the student at the time of transition into such community-based support services; provided further, that funding provided herein may reimburse private schools for prior fiscal year's tuition; provided further, that

the commonwealth shall not pay more than 50 per cent of the cost of any such residential placement; and provided further, that not less than \$200,000, shall be expended for the costs of borrowing audiotaped textbooks by special needs students whose disabilities include, but shall not be limited to: blindness, visual impairment, learning disabilities such as dyslexia or physical disabilities such as cerebral palsy, that limit the use of standard print, and an outreach program geared toward special education teachers, students and parents regarding the services of such program \$51,998,406

Local Aid Fund 100.0%

7061-0015 For the purpose of a loan program for unanticipated special education expenses of local education authorities; provided, that said program shall provide temporary relief in the form of three-year loans to any such authority obligated to pay the cost of unbudgeted services for children determined eligible for services pursuant to chapter 71B of the General Laws; provided further, that no such loan shall be approved unless the cost of such unbudgeted services exceeds four times the average per pupil education costs of any such authority or when the total unanticipated special education costs for such an authority are determined to be excessive by the department; provided further, that said department shall establish the repayment terms for any loan funded pursuant to this item; and provided further, that an authority shall demonstrate to the satisfaction of the department that such authority was unable to anticipate the cost of such services, prior appropriation continued.

Local Aid Fund 100.0%

7061-0019 For school and school district audits, assistance and monitoring to conduct program and financial compliance audits of the expenditure of chapter 70 funds, so-called, and to assist schools and school districts in developing comprehensive plans to improve student performance and to monitor the implementation of improvement efforts; provided, that the department of education shall collaborate with the division of local services of the department of revenue, pursuant to section 368; provided further, that not less than \$500,000

	shall be transferred to said division by August 1, 1998 for completion of such audits and for implementation of said section 368; provided further, that said departments shall provide technical assistance to certain cities, towns and regional school districts deemed to be under-performing by said department of education; provided further, that not more than \$1,000,000 shall be expended for the monitoring and follow-up activities of said department's complaint management system, review and approval of local educational agency applications and local school district's compliance with the part B requirements of the federal special education law, known as the Individuals With Disabilities Education Act, in the provision of special education and related services to children with disabilities; and provided further, that such monitoring activities shall occur in each school district in cycles of not less than three years	\$3,328,798
	Local Aid Fund	100.0%
7061-9000	For fiscal year 1999 reimbursements to certain cities, towns and regional school districts for a school choice transportation reimbursement program pursuant to subsection (i) of section 12B of chapter 76 of the General Laws	\$250,000
	Local Aid Fund	100.0%
7061-9010	For fiscal year 1999 reimbursements to certain cities, towns and regional school districts pursuant to section 89 of chapter 71 of the General Laws	\$25,568,134
	Local Aid Fund	100.0%
7061-9100	For professional development; provided, that \$42,570,481 shall be transferred to item 7061-0008 of section 2 for the purposes of professional development; provided further, that said \$42,570,481 shall not be subject to the provisions of subsection (b) of section 12 of chapter 70 of the General Laws; provided further, that preference shall be given to public institutions of higher education in contracts awarded by the department of education for the professional development of teachers; provided further, that not less than \$200,000 shall be expended for the writing project at the University of Massachusetts at Amherst and at Boston for	

Chap. 194

	the professional development of teachers; and provided further, that school districts may use said funds for project-based learning	\$42,770,481
	Local Aid Fund	100.0%
7061-9200	For the education technology program, so-called; provided, that the department of education shall file a spending plan for the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by September 1, 1998	\$742,686
	Local Aid Fund	100.0%
7061-9400	For student and school assessment and for grants to school districts to develop portfolio assessments for use in individual classrooms as an enhancement to student assessment; provided, that as much as is practicable, especially in the case of students whose performance is difficult to assess using conventional methods, such instruments shall include consideration of work samples and projects and shall facilitate authentic and direct gauges of student performance; provided further, that such portfolio assessments shall not replace the statewide standardized assessment based on the curriculum frameworks; provided further, that all school assessments shall center on the academic standards embodied in the curriculum frameworks and shall involve gauges which shall be relevant and meaningful to students, parents, teachers, administrators and taxpayers pursuant the first paragraph of section 1L of chapter 69 of the General Laws; and provided further, that notwithstanding the provision of any general or special law to the contrary, assessment of proficiency in English shall be administered in English	\$13,000,000
	Local Aid Fund	100.0%
7061-9404	For assistance and grants to cities, towns and regional school districts to develop or enhance academic support services for students scoring in level 1 or 2 on the Massachusetts Comprehensive Assessment System exam, so-called, or, only in fiscal year 1999, for students who have been identified as needing improvement in their academic knowledge and skill based on other state or locally administered standardized assessment measures at any	

grade level; provided, that preference shall be given to those districts with a high percentage of such students; provided further, that the department of education may give priority for such assistance and grants to schools and districts at risk of or determined to be underperforming in accordance with sections 1J and 1K of chapter 69 of the General Laws; provided further, that the purpose of such program shall be to raise students' academic achievement through services that may include, but shall not be limited to: integrated tutoring and mentoring programs; extended school day and year; weekend and school vacation programs; summer programs; school-to-work connecting activities, so-called, creating worksite learning experiences for students as an extension of the classroom; professional development to improve teacher skills and knowledge and alignment of local curriculum with state standards and assessment data; provided further, that such grants and assistance shall be primarily academic in focus; provided further, that such grants and assistance may incorporate appropriate cultural and recreational activities to encourage student participation and enhance academic performance; provided further, that any grant funds distributed from this item shall be deposited with the treasurer of such city, town or regional school district and held in a separate account and shall be expended by the school committee of such city, town or regional school district without further appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that such program shall supplement currently funded local, state and federal programs at the school or district; provided further, that in order to receive such resources, districts shall develop a comprehensive district plan to improve student performance which shall include accountability measures for assessing performance and results, a professional development program, a coordinated budget that demonstrates how all available local, state, federal, private and other funds shall be used to achieve the goals and activities in the plan and any other requirements determined by the department; provided further, that districts shall report on program activities, results and

Chap. 194

	expenditures as required by the department; provided further, that the department may expend up to \$250,000 to administer the program; and provided further, that for the purposes of such program, appropriated funds may be expended through August 31, 1999 to allow for summer academic support services and professional development for educators	\$20,000,000
	Local Aid Fund	100.0%
7061-9600	For payments to state public institutions of higher education for the dual enrollment program, so-called; provided further, that not less than \$45,600 shall be expended for the technology prep pilot program, so-called, at Massasoit Community College	\$1,625,000
	Local Aid Fund	100.0%
7061-9604	For teacher preparation; provided, that not less than 24.87 FTEs shall be funded from this item	\$1,984,607
	Local Aid Fund	100.0%
7061-9611	For after-school programs as approved in the board of education's five-year master plan; provided, that \$250,000 shall be expended for a pilot program in the city of Fall River on preventing violence among youths; provided further, that not less than \$50,000 shall be expended for a pilot program to create a recreation and education advancement program to be administered by the management team established pursuant to chapter 133 of the acts of 1989; provided further, that \$250,000 shall be expended for a pilot program in the city of Lawrence to incorporate violence prevention education skills with reading, language, social studies, science, math and the arts for kindergarten through grade eight; provided further, that such program shall also provide parent training and education in violence prevention; provided further, that not less than \$775,000 may be expended on after school programs; provided further, that no funds from this item may be expended for the educational alternatives for chronically disruptive students program; provided further, that \$2,500,000 shall be expended for voluntary in-school and after school service programs administered by the Massachusetts Service Alliance; and provided further, that	

Chap. 194

\$200,000 shall be expended for a violence prevention task force and for grants for violence prevention initiatives \$4,025,000

Local Aid Fund 100.0%

7061-9612 For the school of excellence program at the Worcester Polytechnic Institute; provided, that every effort shall be made to recruit and serve equal numbers of male and female students; provided further, that sending school districts of students attending said Institute shall not be required to expend any funds for the cost of such students while in attendance at said Institute; provided further, that of the amount appropriated herein, \$378,000 shall be obligated for professional development activities at the school of excellence program at said Institute, including salary and benefits for master teachers and visiting scholars, so-called; and provided further, that the department of education shall enter into an agreement with said Institute to operate a school of excellence in mathematics and science \$819,231

Local Aid Fund 100.0%

7061-9615 For the MassEd.Net program to provide on-line service for Massachusetts educators; provided, that the department shall file a spending plan for the amounts appropriated herein with the joint committee on education and the house and senate committees on ways and means by September 1, 1998 \$1,367,500

Local Aid Fund 100.0%

7061-9617 For the abstinence-based teen pregnancy prevention program, so-called, to prevent teen pregnancy in the cities of Lawrence, North Adams and Pittsfield and the town of Orange; provided, that not less than \$90,000 shall be expended for said program in the city of Pittsfield; provided further, that not less than \$80,000 shall be expended for said program in the city of North Adams; and provided further, that the funds appropriated herein shall be transferred to the department of public health to administer said program \$250,000

Local Aid Fund 100.0%

7061-9618 For the provision of day care vouchers for teen parents in order to allow such parents to attend high school pursuant

Chap. 194

	to the provisions of subsection (i) of section 110 of chapter 5 of the acts of 1995; provided, that \$2,000,000 shall be transferred from this item to item 4130-3400	\$2,000,000
	Local Aid Fund	100.0%
7061-9619	For the purpose of funding the Franklin Institute of Boston; provided, that the Franklin Institute of Boston shall be granted access to the Massachusetts education computer system; and provided further, that the Franklin Institute of Boston shall be permitted to join the state buying consortium	\$2
	Local Aid Fund	100.0%
7061-9620	For grants to school districts for the costs associated with establishing advanced placement courses; provided, that priority shall be given to those districts not offering advanced placement courses in the 1997 to 1998 school year	\$500,000
	Local Aid Fund	100.0%
7061-9621	For the administration of a grant program for gifted and talented school age children; provided, that the funds appropriated in this item shall be in addition to any federal funds available for such program; provided further, that priority shall be given to those grant applications that address the needs of students who are identified by any of the following criteria: (1) the result of a standardized aptitude examination which is three or more standard deviations above the mean; (2) an evaluation by the child's teachers that the child does perform, or is capable of performing, satisfactorily at two or more grade levels above the child's chronological age; or (3) a score on the math or verbal Scholastic Aptitude Test by a child of not more than 13 years of age which is equal to or greater than the average on either test obtained by college-bound high school juniors; and provided further, that such programs may be made available by a city, town, or regional school district	\$437,970
	Local Aid Fund	100.0%
7061-9626	For grants and contracts with youthbuild programs for the purposes of providing comprehensive youthbuild services to economically disadvantaged young adults in the cities	

	of Boston, Brockton, Cambridge, Fitchburg, Lawrence, Lowell, New Bedford and Springfield	\$1,250,000
	Local Aid Fund	100.0%
7061-9632	For the Pioneer Valley Regional Education Business Alliance, so-called; provided, that a spending plan including revenues and expenditures from all funding sources shall be filed with the joint committee on education, arts and humanities and with the house and senate committees on ways and means not later than September 1, 1998; and provided further, that \$5,000 shall be expended for the purchase of materials and for the department to conduct training for teachers and staff to identify and serve students with scotopic sensitivity syndrome or Irlen syndrome	\$200,000
7061-9634	For matching grants to be administered by the department of education for the Massachusetts Service Alliance for public and private agencies with mentoring programs for the recruitment and training of mentors and for other supporting services including, but not limited to, academic support services; provided, that the disbursement of funds from this item shall be equal to one dollar for every dollar spent above the amount spent in fiscal year 1998 by such agencies for the provision of such services; and provided further, that said Massachusetts Service Alliance shall submit a report detailing the expenditure of such funds and the amount of matching funds raised to the secretary of administration and finance and the house and senate committees on ways and means not later than December 31, 1998	\$1,000,000
	Local Aid Fund	100.0%

Board of Higher Education.

7066-0000	For the operation of the board of higher education; provided, that said board shall recommend savings proposals that permit institutions of higher education to achieve administrative and program cost reductions, resource reallocation and program reassessment, and utilize resources otherwise available to such institutions, provided further, that said board shall establish a policy directing institutions of higher education to spend not less than 4 per cent of the combined amount of the total state	
-----------	---	--

appropriation and student retained revenues by each such institution for ongoing facility maintenance and renewal; provided further, that upon request of any such institution, said board may grant a waiver from such policy if it represents an unreasonable financial hardship; provided further, that said board shall recommend to the secretary of administration and finance and the house and senate committees on ways and means not later than September 1, 1998, all actions necessary to implement the market analysis proposal selected as a result of a request for proposals by the division of capital asset maintenance and management for the purpose of creating a college center in the town of Plymouth; and provided further, that such recommendations shall include, but not be limited to, plans to implement a state-of-the-art distance learning and economic development center operating in conjunction with the public institutions of higher education as a distance learning center in order to create a public-private partnership to expand higher education opportunities in southern Massachusetts \$2,248,957

7066-0005 For the commonwealth's share of the cost of the compact for education \$68,400

7066-0009 For the New England Board of Higher Education \$657,389

7066-0100 For a reserve to be distributed according to guidelines established by the board of higher education for campus initiatives or projects to improve academic programs and student performance, campus accountability, efficiency in management and cost-effective use of resources; provided, that said board shall report quarterly to the house and senate committees on ways and means and the joint committee on education, arts and humanities on campus grant proposals and awards including, but not limited to, a description of each proposal, its costs, the amount awarded and projected outcomes; provided further, that notwithstanding the provisions of any general or special law to the contrary, said board may allocate funds from this item to other items of appropriation; provided further, that no funds from this item shall be expended to support development or operations of commonwealth college so-called, at the University of Massachusetts; and provided

	further, that said board shall submit an allocation plan to the house and senate committees on ways and means ten days prior to any allocation of funds from this item	\$6,000,000
7070-0031	For the McNair component of the financial assistance program to increase access to public and independent institutions of higher education for students who meet certain income eligibility standards developed by the chancellor of higher education and for students with serious physical impairments, known as the Ronald E. McNair Education Opportunity Program	\$4,761,741
7070-0065	For a scholarship program to provide financial assistance to Massachusetts students enrolled in and pursuing a program of higher education in an approved public or independent college, university, school of nursing or other approved institution furnishing a program of higher education; provided, that the Massachusetts state scholarship office shall expend not less than \$10,911,890 for community college access grants to ensure that no Massachusetts resident enrolled in and pursuing an associate's degree in a community colleges pays more than \$500 in tuition and fees net of any federal or state scholarship or tax credit; provided further, that any resident whose expected family contribution level, as determined according to the federal methodology established pursuant to Part F of Title IV of the Higher Education Act of 1965, as amended, is not more than \$2,250, shall incur no net tuition and fee costs after deducting any federal or state scholarship or tax credit from financial need as calculated by the state scholarship office; provided further, that such residents who are not fully eligible for the federal HOPE tax credit, so-called, based on their exceeding maximum income eligibility limits, shall not be eligible for said grants; provided further that not less than \$15,241,688 shall be expended for a program of needs-based financial assistance for Massachusetts residents enrolled in and pursuing a program of higher education in a state college or the University of Massachusetts; provided further, that not less than \$10,000,000 shall be made available for the no-interest loan program pursuant to clause (cc) of section 9 of chapter 15A of the General Laws; provided further, that	

of said \$10,000,000, not more than \$775,000 may be spent for the administration of said no-interest loan program; provided further, that \$4,000,000 shall be expended for the part-time student grant program; provided further, that of the sum appropriated herein, not less than \$1,000,000 shall be obligated for the purposes of the Massachusetts plan, pursuant to section 5C of chapter 15C of the General Laws; provided further, that the Massachusetts state scholarship office shall expend not less than \$14,000,000 to provide for matching scholarship grants to needy Massachusetts students at participating Massachusetts independent regionally accredited colleges, universities and schools of nursing; provided further, that except as otherwise provided in this act all such aforementioned financial assistance shall be distributed to students demonstrating the greatest need as determined by an eligibility index used by said Massachusetts state scholarship office; provided further, that students awarded full or partial scholarships under the Christian A. Herter Memorial Scholarship Program, as established in section 16 of chapter 15A of the General Laws, who have matriculated in a program of higher education outside the commonwealth may continue to receive the scholarship aid guaranteed by said program; provided further, that the said Massachusetts scholarship office may expend monies for the public service awards as established in said section 16 of said chapter 15A; provided further, that the chancellor of public higher education, in coordination with the Massachusetts state scholarship office, shall establish such regulations governing the eligibility and the awarding of financial assistance as said chancellor shall deem necessary; and provided further, that not more than \$1,695,408 shall be expended on the administration of the scholarship program. . . \$89,296,828

- 7077-0010 For the purchase of scientific, technological and other educational reference materials for the libraries of the system of public higher education institutions \$11,000,000
- 7077-0023 For a contract with the Tufts School of Veterinary Medicine; provided, that funds appropriated herein shall be expended, in accordance with the Massachusetts resident veterinary tuition remission plan submitted January 8, 1998 for sup-

portive veterinary services provided to the commonwealth;
provided further, that prior year costs may be paid from
this item \$5,125,000

University of Massachusetts.

7100-0200 For the operation of the University of Massachusetts;
provided, that notwithstanding the provisions of any
general or special law to the contrary, the board of trustees
shall develop an allocation plan for the amount
appropriated herein and shall notify the house and senate
committees on ways and means of said plan within 45 days
of the effective date of this act; provided further, that the
board of trustees in conjunction with the state health
education center at the University of Massachusetts
Medical Center shall maintain learning contracts for
students admitted on or after the fall of 1978 which shall
include provisions for "payback" service or monetary
payback to the commonwealth for a period after such
students have fulfilled all internship and residency
requirements; provided further, that not less than \$795,619
shall be expended for the purposes of the area health
education centers program, also known as AHEC;
provided further, that not less than \$136,816 shall be
expended for the purpose of the state health education
center at the medical center; provided further, that not less
than \$275,000 shall be expended for the analysis of a
narcotic drug synthetic substitute, poison, drug, medicine
or chemical at the University of Massachusetts Medical
School in order to support the law enforcement efforts of
the district attorney and the police departments of the cities
and towns of the middle district; provided further, that not
less than \$250,000 shall be expended for the purpose of the
Paul E. Tsongas Industrial Historical Center at the
University of Massachusetts at Lowell; provided further,
that not less \$150,000 shall be expended for a college
preparation program at the University of Massachusetts at
Lowell; provided further, that not less than \$69,566 shall
be expended for the Center for Rural Massachusetts at
Amherst; provided further, that not less than \$25,000 shall
be expended on the Massachusetts center for renaissance

studies in Amherst; provided further, that not less than \$621,000 shall be expended for the Massachusetts Institute for Social and Economic Research at Amherst to manage the United States census data and provide population estimates and projections and for the evaluation of the commonwealth's eligibility for federal grant programs and for the application for, and acquisition of, any grants made under such programs, and for the marketing and sale of publications and services, to public and private entities provided by said Institute; provided further, that \$499,019 shall be expended for the purposes of the William Joiner Center; provided further, that not less than \$368,287 shall be expended for the purposes of the Mauricio Gaston Institute of Latino Community Development and Public Policy; provided further, that not less than \$299,284 shall be expended for the purposes of research and analytical studies at the Monroe Trotter Institute; provided further, that not less than \$200,000 shall be expended for the purposes of the Institute for Asian-American studies; provided further, that not less than \$75,000 shall be expended on an artificial reef program including, but not limited to, the creation of a model program to enhance and rehabilitate marine habitats at the University of Massachusetts at Dartmouth; provided further, the University of Massachusetts at Dartmouth shall enter into a cooperative agreement with the division of fisheries and wildlife within the department of fisheries, wildlife and environmental law enforcement for said division to administer said program; provided further, that not less than \$628,834 shall be expended for the expense of a gerontology institute; provided further, that not less than \$156,663 shall be expended for the endowment of a chair named in honor of the late Frank Manning; provided further, that not less than \$637,010 shall be expended for the physical education department at the University of Massachusetts at Boston; provided further, that \$250,000 shall be expended for the Institute for Policy Research in Family and Community Violence at the University of Massachusetts at Boston; provided further, that the sum expended for Umass Extension in fiscal year 1999 shall

not be reduced except in proportion to adjustments consistent with university budget adjustments and policies affecting comparable academic outreach programs of the University of Massachusetts at Amherst; provided further, that such funds shall be expended in accordance with a plan reviewed and recommended by the Umass Extension Board of Public Overseers; provided further, that not less than \$35,000 shall be expended for the continuing education program in Attleborough operated by the University of Massachusetts at Dartmouth; provided further, that not less than \$443,200 shall be expended for the cranberry experiment station; provided further, that a board of oversight shall be responsible for the purposes of said station; provided further, that not less than \$300,000 shall be expended for the John W. McCormack Institute of Public Affairs; provided further, that not less than \$179,635 shall be expended for the Center for Women in Politics and Public Policy at the John W. McCormack Institute of Public Affairs; provided further, that \$200,000 shall be obligated for the University of Massachusetts Economic Project, so-called; provided further, that not less than \$2,000,000 shall be expended for the emerging technology centers, pursuant to sections 38 to 42, inclusive, of chapter 75 of the General Laws; provided further, that not less than \$380,000 shall be obligated for the start-up costs associated with the Center of Marine Environmental Science Electronic Technology and Fisheries at the University of Massachusetts at Dartmouth, including a study and model program for artificial reef construction and fisheries development; provided further, that \$50,000 shall be obligated for rural development councils; provided further, that \$110,000 shall be expended for the development of a court interpreter's study program at the university in conjunction with the university's partnership with the trial courts; provided further, that \$350,000 shall be expended for a satellite medical examiners office; provided further, that \$500,000 shall be expended for the Center for Portuguese Studies at the University of Massachusetts at Dartmouth; provided further, that \$100,000 shall be expended for an outreach

program at Martha's Vineyard by the University of Massachusetts at Dartmouth in conjunction with Nathan Mayhew Seminars for the purpose of establishing a long distance learning center; provided further, that \$50,000 shall be expended for the University of Massachusetts Boston Pension Assistance Project; provided further, that not less than \$80,000 shall be expended on the model program for artificial reef construction and development with such monies to be administered by the division of marine fisheries within the department of fisheries, wildlife and environmental law enforcement; provided further, that not more than \$250,000 shall be provided to the biotechnology program at the University of Massachusetts at Amherst for the development of the Springfield Biomedical Technological Institute jointly sponsored by Baystate Medical Center in the city of Springfield and the biotechnology program of the University of Massachusetts at Amherst; provided further, that each center, program and study earmarked within this appropriation shall submit to the board of trustees of the University of Massachusetts and to the house and senate committees on ways and means not later than January 20, 1999, a report which shall include a programmatic description, a spending plan detailing the total program budget including all funding sources, the number of students served by the program and an explanation of how the program fulfills the mission of said university; and provided further, that the board of trustees may require said institutions to provide communication accessibility for the deaf and hard of hearing where necessary \$424,144,220

7100-0300 For the operation of the toxics use reduction institute program at the University of Massachusetts at Lowell, in accordance with the provisions of chapter 21I of the General Laws; provided, that not less than \$200,000 shall be obligated for programs that train business, industry, higher education and medical and high school laboratory personnel to reduce toxic waste at the source utilizing the Microscale chemistry technology \$1,762,965

Toxics Use Reduction Fund 100.0%

7100-0500 For the operation of the board of higher education's

Chap. 194

Commonwealth College honors program, so-called, at the
University of Massachusetts at Amherst \$1,750,000

State Colleges.

7109-0100	For Bridgewater State College	\$26,577,668
7109-1202	For the operation of the John Joseph Moakley center for technological applications at Bridgewater State College; provided, that said initiative shall be conducted on the site of said college for the purposes of technological applications to classroom teaching and initiatives in distance learning and economic development in conjunction with business and industry in southeastern Massachusetts	\$613,000
7110-0100	For Fitchburg state college; provided, that not less than \$250,000 shall be expended for the Fitchburg State College Leadership Academy, so-called	\$23,023,528
7112-0100	For Framingham State College; provided, that not less than \$400,000 shall be expended for the Christa McAuliffe Center; provided further, that not less than \$300,000 shall be expended for the operation of the commonwealth's global education centers; and provided further, that not less than \$200,000 shall be expended for the regional economic research center	\$19,053,774
7113-0100	For North Adams State College; provided, that not less than \$12,500 shall be expended for the operation of a blue ribbon task force on community education with the assistance of the state college council of presidents, so-called	\$11,708,148
7114-0100	For Salem State College; provided, that a sum of not less than \$98,200 shall be expended for the aquaculture program at said college established pursuant to section 274 of chapter 38 of the acts of 1995	\$29,345,802
7114-0101	For a reserve for operation and maintenance costs associated with the acquisition of the GTE/Sylvania property located in the city of Salem; provided, that not less than \$500,000 shall be expended for design costs and basic infrastructure improvements of the GTE/Sylvania site	\$1,082,885
7115-0100	For Westfield State College	\$18,660,118
7116-0100	For Worcester State College; provided, that funds may be expended for the creation of an allied health center at Worcester State College	\$18,684,328

Chap. 194

- 7117-0100 For the Massachusetts College of Art; provided, that funds may be expended for the purpose of compliance with the Americans with Disabilities Act \$12,149,019
- 7118-0100 For the Massachusetts Maritime Academy; provided, that \$100,000 shall be expended for a shipbuilding program in conjunction with the revitalization of the Fore River Shipyard \$9,808,592

Community Colleges.

- 7502-0100 For Berkshire Community College \$7,992,403
- 7503-0100 For Bristol Community College; provided, that \$60,000 shall be expended for the purpose of tracking, monitoring, evaluating and reporting on individuals who are enrolled at Bristol Community College while receiving public assistance; and provided further, that such tracking, monitoring, evaluating and reporting shall include administrative and computer assistance in order to enable communication with the department of transitional assistance regarding such individuals \$12,393,353
- 7504-0100 For Cape Cod Community College; provided, that \$137,650 shall be expended for library resources for the "Two Plus Two" initiative, so-called \$9,337,784
- 7504-0101 For the operation of an environmental technology, education and job training partnership through the Cape Cod Community College; provided, that said community college shall coordinate said partnership with the Massachusetts Maritime Academy and the University of Massachusetts at Dartmouth; provided further, that said initiative shall be conducted at the Massachusetts military reservation or at a site on Cape Cod determined by said college to be suitable for the purposes of on-site education and training in the use of alternative technologies to clean up designated superfund sites; provided further, that preference shall be given to local applicants; and provided further, that the executive office of environmental affairs and the University of Massachusetts at Dartmouth shall participate in the testing and evaluation of innovative technologies \$124,438
- Toxics Use Reduction Fund 100.0%

Chap. 194

7505-0100	For Greenfield Community College; provided, that not less than \$195,000 shall be obligated for the Heritage Bank building acquired by the Greenfield Community College Foundation	\$7,487,018
7506-0100	For Holyoke Community College	\$13,736,858
7506-0101	For the operation of home information centers in Holyoke and East Longmeadow to be administered by Holyoke Community College; provided, that \$30,000 shall be expended for the home information center at East Longmeadow; provided further, that \$85,000 shall be expended for the Holyoke home information center; provided further, that said home information centers shall file a financial and programmatic plan with the house and senate committees on ways and means by January 1, 1999; and provided further, that such plan shall include, but not be limited to, a framework to make the operations of said centers self-sufficient not later than fiscal year 2002	\$115,000
7507-0100	For Massachusetts Bay Community College	\$11,724,999
7508-0100	For Massasoit Community College; provided, that not less than \$274,700 shall be expended for the operation of Christo's II Culinary Arts Center	\$16,271,072
7509-0100	For Mount Wachusett Community College; provided, that \$100,000 shall be expended for the operation of the Vietnam Memorial Community Fitness and Wellness Center at Mount Wachusett community college; and provided further, that \$200,000 shall be expended for the Wood Technology center at Mount Wachusett Community College	\$9,311,167
7510-0100	For Northern Essex Community College	\$15,461,797
7511-0100	For North Shore Community College	\$15,567,307
7512-0100	For Quinsigamond Community College	\$11,384,852
7514-0100	For Springfield Technical Community College; provided, that \$606,920 shall be allocated for a reserve for the operation and maintenance expenses incurred by Springfield Technical Community College associated with the acquisition of the Digital property, so-called; provided, that said college may expend revenues in an amount not to exceed \$575,000 received from rent utility and other	

Chap. 194

	charges for the operation and maintenance of said property; and provided further, that \$235,336 shall be encumbered for an emergency reserve for unanticipated operating and maintenance expenses of Springfield Technical Community College in the acquisition of the Digital property, so-called	\$19,899,346
7514-0102	For the Massachusetts Center for Telecommunications and Information Technology through the Springfield Technical Community College assistance corporation, as established by chapter 273 of the acts of 1994; provided, that the amount appropriated herein shall include, but not be limited to, operating and maintaining cable television programming, distance learning curricula, telecommunications-intensive company facilities and a small business incubator	\$250,000
7515-0100	For Roxbury Community College	\$9,290,742
7515-0120	For the operation of the Reggie Lewis Track and Athletic Center at Roxbury Community College	\$1,033,618
7515-0121	For the Reggie Lewis Track and Athletic Center at Roxbury Community College; provided, that said college may expend an amount not to exceed \$247,100 received from fees, rentals and facility expenses associated with the running and operation of national track meets, high school track meets, high school dual meets, Roxbury Community College athletic events, other special athletic events, conferences, meetings and programs; provided further, that only expenses for contracted services associated with the aforementioned events shall be funded from this item; and provided further, that all year end balances associated with the Reggie Lewis Track and Athletic Center, on an annual basis, shall be transferred to the Reggie Lewis Track and Athletic Center Building Fund in accordance with chapter 772 of the acts of 1987, as amended	\$247,100
	Reggie Lewis Track and Athletic Center Fund . 100.0%	
7516-0100	For Middlesex Community College	\$15,587,848
7518-0100	For Bunker Hill Community College; provided, that \$135,000 shall be obligated for the life focus center	\$16,169,251
7520-0424	For a health and welfare reserve for eligible personnel employed at the community and state colleges	\$2,830,369

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Secretary.

8000-0000	For the office of the secretary	\$516,528
	Highway Fund	85.0%
	General Fund	15.0%
8000-0010	For community policing grants to be administered by the executive office of public safety; provided, that no such grants shall be awarded to the department of state police; provided further, that not more than \$75,000 shall be provided for the safe city program, so-called, in the city of Lynn; provided further, that not less than \$75,000 dollars shall be provided for community policing in the city of Quincy; provided further, that not less than \$75,000 shall be provided for community policing in the town of Weymouth; provided further, that not more than \$75,000 shall be provided for the North Adams community policing program; provided further, that not less than \$40,000 shall be provided for the funding of the community school service anti-violence officer position in the city of Malden in addition to the grant award to such city in fiscal year 1998; provided further, that not less than \$100,000 shall be provided for community policing in the city of Lawrence in addition to the grant award to such city in fiscal year 1998; provided further, that grants shall be awarded by said executive office to the municipalities of Abington, Agawam, Amesbury, Andover, Athol, Attleborough, Avon, Bedford, Billerica, Boston, Braintree, Brockton, Brookline, Burlington, Cambridge, Canton, Chelsea, Chicopee, Dalton, Dedham, Fall River, Fitchburg, Framingham, Gill, Georgetown, Haverhill, Holbrook, Holyoke, Lawrence, Lowell, Lynn, Malden, Medford, Melrose, Methuen, Milton, Montague, Needham, New Bedford, Newton, North Adams, North Andover, North Attleborough, North Reading, Northampton, Northfield, Orange, Pittsfield, Plainville, Quincy, Randolph, Reading, Revere, Rockland, Saugus, Shelburne, Somerville, Springfield, Stoneham, Turners Falls, Waltham, Weymouth, Winchester and Worcester in an amount not less than the amount of the grants each such municipality	

received in fiscal year 1998 but in no event shall a listed community receive an amount of less than \$40,000; provided further, that any such community which received \$42,000 or less in fiscal year 1998 shall be eligible to compete for additional community policing grant awards through the competitive application process administered by said executive office; provided further, that all grant applications shall be subject to said process and the criteria established for grant awards; provided further, that monies awarded by said executive office may include grants made for community policing in state-aided public housing developments; provided further, that \$40,000 shall be provided for the community safety activities of the North Cambridge Crime Task Force; provided further, that not less than \$1,200,000 shall be made available to the city of Boston in addition to the grant amount in fiscal year 1997; provided further, that \$350,000 of said \$1,200,000 shall be made available for community policing in the Bowdoin Street-Geneva Avenue and Uphams Corner sections, so-called, in the Dorchester section of the city of Boston; provided further, that \$100,000 of said \$1,200,000 shall be provided for community policing in the B-2 sector, so-called, of Mission Hill in the city of Boston for additional enforcement in conjunction with the neighborhood policing program; provided further, that not less than \$20,000 shall be expended for an internship program for the purpose of staffing Lowell police department substations; provided further, that not less than \$5,000 be expended for equipment for the Lowell police department Pawtucketville substation; and provided further, that not later than September 15, 1998, said executive office shall submit a report detailing the amount of grants awarded to such grant recipients and descriptions of such grants to the house and senate committees on ways and means \$20,160,000

Local Aid Fund 100.0%

8000-0020 For the statewide emergency telecommunications board; provided, that the board shall collect an amount equivalent to the direct and indirect costs related to the board pursuant to section 18F of chapter 6A of the General Laws \$300,000

Local Aid Fund 100.0%

Chap. 194

8000-0030	For the operation of a hate crimes awareness program to be administered by the executive office of public safety	\$100,000
8000-0040	For police career incentives to reimburse certain cities and towns for career incentive salary increases for police officers	\$20,460,923
	Local Aid Fund	100.0%
8000-0101	The secretary of public safety may expend up to a maximum of \$17,980 in revenues collected from fees for services performed through the auto etching program	\$17,980

Office of Chief Medical Examiner.

8000-0105	For the chief medical examiner pursuant to chapter 38 of the General Laws	\$3,356,181
	Local Aid Fund	50.0%
	General Fund	50.0%

Criminal History Systems Board.

8000-0110	For the operation of the criminal history systems board; provided, that the board shall hire one administrative assistant who shall be employed in the victim services unit of the board for the continued and enhanced operation of the post-conviction victim and witness certification program operated pursuant to the provisions of chapter 258B and section 172C of chapter 6 of the General Laws; provided further, that such victim services position shall be in addition to any such positions approved as of February 1, 1998; and provided further, that \$75,000 shall be expended for the purpose of enabling local housing authorities access to criminal offense information when qualifying applicants for state-assisted housing	\$3,192,765
	Highway Fund	50.0%
	Local Aid Fund	50.0%
8000-0125	For the operation of the sex offender registry program, including, but not limited to, the costs of maintaining a computerized registry system and the classification of persons subject to said registry	\$575,982
	Local Aid Fund	100.0%
8000-1122	For the telecommunications and information technology costs of the criminal history systems board; provided, that no	

Chap. 194

funds provided herein shall be expended in the KK subsidiary, so-called; provided further, that not more than \$1,943,670 shall be expended on contracts for the lease, lease-purchase and maintenance of information technology hardware and software; and provided further, that not more than \$1,163,880 shall be expended for telecommunications charges associated with data lines, voice telephony, mobile communications and national law enforcement telecommunications service \$3,107,550

Board of Building Regulations and Standards.

- 8000-0160 For the operation of the state board of building regulations and standards for the purpose of implementing and enforcing the provisions of sections 93 to 100, inclusive, of chapter 143 of the General Laws; provided, that not more than \$100,000 shall be expended for repairs at the Paul A. Dever school in the city of Taunton for classroom space for trainings provided by said board \$664,998
- 8000-0161 For the registration and licensing of home improvement contractors pursuant to chapter 142A of the General Laws. \$143,635
- 8000-0167 The state board of building regulations and standards may collect and expend an amount not to exceed \$40,000 for the purposes of providing state building code training and courses for instruction; provided, that said board may charge fees for the classes and education materials associated with administering training; provided further, that no costs in the AA subsidiary, so-called, shall be charged to this item; and provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$40,000

Architectural Access Board.

- 8000-0500 For the architectural access board \$215,959

State Police.

- 8100-0000 For the administration and operation of the department of

state police; provided, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not less than 40 officers shall be provided to the metropolitan district commission division of watershed management for the purpose of patrolling the watershed property of the commission; provided further, that funds shall be expended from this item for the administration and operation of the crime laboratory; provided further, that the colonel of state police shall maintain the satellite western Massachusetts crime laboratory located at the Massachusetts criminal justice training council; provided further, that said colonel shall provide one additional chemist who shall be situated at said crime laboratory located in the town of Agawam; provided further, that not less than \$250,000 shall be made available for said western Massachusetts crime laboratory; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not less than five officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the metropolitan district commission to provide police coverage on commission properties and parkways; provided further, that not less than \$15,000 shall be encumbered to reimburse the city of Springfield arson and bomb squad for services performed at the request of the department of state police; provided further, that the department shall train as many uniformed members of the state police as necessary to attain and maintain a complement of not less than six explosives technicians; provided further that, no management level employee compensated from this item shall receive any increase in compensation until said department complies fully with the provisions of item 8100-0301; and provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the division of law enforce-

ment within the department of fisheries, wildlife, and environmental law enforcement at no cost to, or compensation from, said division the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not less than 40 officers shall be provided to the metropolitan district commission division of watershed management for the purpose of patrolling the watershed property of the commission; provided further, that funds shall be expended from this item for the administration and operation of the crime laboratory; provided further, that the colonel of state police shall maintain the satellite western Massachusetts crime laboratory located at the Massachusetts criminal justice training council; provided further, that said colonel shall provide one additional chemist who shall be situated at said crime laboratory located in the town of Agawam; provided further, that not less than \$250,000 shall be made available for said western Massachusetts crime laboratory; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not less than five officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the metropolitan district commission to provide police coverage on commission properties and parkways; provided further, that not less than \$15,000 shall be encumbered to reimburse the city of Springfield arson and bomb squad for services performed at the request of the department of state police; provided further, that the department shall train as many uniformed members of the state police as necessary to attain and maintain a complement of not less than six explosives technicians; provided further that, no management level employee compensated from this item shall receive any increase in compensation until said department complies fully with the provisions of item 8100-0301; and provided further, that the creation of a new or the

	expansion of the existing statewide communications network shall include the division of law enforcement within the department of fisheries, wildlife, and environmental law enforcement at no cost to, or compensation from, said division	\$130,899,300
	Highway Fund	88.2%
	Local Aid Fund	9.5%
	General Fund	2.3%
8100-0001	For the purchase of state police cruisers; provided, that not more than \$100,000 shall be expended for the purchase of vehicles for the parole board	\$5,000,000
	Highway Fund	100.0%
8100-0006	For private police details; provided, that the department may expend up to \$12,150,000 in revenues collected from fees charged for private police details and the costs of administering such details; and provided further, that notwithstanding any general or special law to the contrary, the department of state police may incur, and the comptroller may certify for payment, expenses and liabilities during fiscal year 1999 to be charged to this item in an amount not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system for the purposes stated herein to accommodate the delayed receipt of revenues authorized to be retained in this item during fiscal year 1999	\$12,150,000
8100-0007	For overtime of state police officers, including the operation of the drug enforcement task force; provided, that not more than \$290,533 shall be expended at the direction of the district attorney for the Suffolk district; provided further, that not more than \$407,123 shall be expended at the direction of the district attorney for the Middlesex district; provided further, that not more than \$387,660 shall be expended at the direction of the district attorney for the Essex district; provided further, that not more than \$312,454 shall be expended at the direction of the district attorney for the Worcester district; provided further, that not more than \$244,115 shall be expended at the direction of the district attorney for the Hampden district; provided further, that not more than \$142,171 shall be expended at	

the direction of the district attorney for the Franklin/Hampshire district; provided further, that not more than \$354,080 shall be expended at the direction of the district attorney for the Norfolk district; provided further, that not more than \$269,240 shall be expended at the direction of the district attorney for the Plymouth district; provided further, that not more than \$174,998 shall be expended at the direction of the district attorney for the Bristol district; provided further, that not more than \$208,611 shall be expended at the direction of the district attorney for the Cape and Islands district; provided further, that not more than \$78,448 shall be expended at the direction of the district attorney for the Berkshire district; provided further, that not more than \$493,294 shall be expended at the direction of the office of the attorney general; provided further, that the department shall fund amounts in excess of the earmarks established herein for any district attorney who demonstrates to the satisfaction of the secretary of public safety a compelling need for additional overtime funds to meet extraordinary costs for the investigation and prosecution of criminal cases; provided further, that overtime dollars expended in joint operations with any federal agency which directly or indirectly reimburses the commonwealth or the department for overtime dollars expended in such operations shall not be included in the calculation of total overtime usage of district attorneys and shall not reduce the amounts allotted herein; provided further, that the balance of this appropriation may be expended for the overtime costs incurred by the department of state police; and provided further, that said department shall provide monthly reports to each district attorney's office and the house and senate committees on ways and means delineating the amount of overtime hours used, the cost of such overtime, the amount of overtime dollars spent to date and the amount of available overtime dollars for such district attorney's office \$13,045,618

Highway Fund	88.2%
Local Aid Fund	9.5%
General Fund	2.3%

Chap. 194

- 8100-0011 The department of state police is hereby authorized to expend an amount not to exceed \$1,150,000 for certain police activities provided pursuant to agreements authorized in this item; provided, that for fiscal year 1999, the colonel of state police is hereby authorized to enter into service agreements with the commanding officer or other person in charge of a military reservation of the United States located in the commonwealth or the government land bank, established in chapter 212 of the acts of 1975; provided further, that such agreements shall establish the responsibilities pertaining to the operation and maintenance of such police services including, but not limited to: (1) provisions governing payment to the department for the costs of regular salaries, overtime, retirement and other employee benefits; and (2) provisions governing payment to the department for the cost of furnishings and equipment necessary to provide such police services; provided further, that the department may charge any recipients of police services for the cost of such services, as authorized by this item; provided further, that the department may retain the revenue so received and expend such revenue as necessary pursuant to this item to provide the agreed level of services; and provided further, that notwithstanding the provisions of any general or special law to the contrary, for the purposes of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate \$1,150,000
- Highway Fund 100.0%
- 8100-0017 For the operation of the state police air wing; provided, that the funds appropriated herein shall be for the increased operational and maintenance costs of the air wing which are directly associated with the purchase of additional helicopters during fiscal year 1999; provided further, that 30 days prior to the expenditure of any funds appropriated herein, the secretaries of administration and finance and the executive office of public safety shall certify in writing to the house and senate committees on ways and means the date for the delivery of such helicopters and the anticipated

	maintenance cost for such additional helicopters in fiscal year 1999; and provided further, that the amount appropriated herein shall be in addition to and shall not supplant or replace funds provided for air wing maintenance in item 8100-0000	\$387,416
	Highway Fund	88.2%
	Local Aid Fund	9.5%
	General Fund	2.3%
8100-0201	The department of state police shall expend up to \$1,050,000 from reimbursements received from the motor carrier safety assistance program for the costs of said program, including personnel	\$1,050,000
8100-0301	For the payroll costs of state police patrols; provided, that \$365,000 shall be expended on a pilot program for the Medford state police barracks entitled Zero Tolerance and Fire Risk Prevention to increase patrols and public safety using bicycles and other policing means within the Middlesex Fells and Mystic River Reservation district; provided further, that \$12,700 shall be expended at the direction of the Bourne barracks for increased traffic detail on Cape Cod and in Plymouth; provided further, that \$30,240 shall be expended for the costs associated with providing state police patrols three nights per week in the city of Brockton, south between Montello street and Warren avenue and north to Battle street between Montello street and Warren avenue, or at such other location and that such patrols shall be assigned between the hours of 8 p.m. and 4 a.m. beginning July 1, 1998 for a period of 18 weeks, as deemed necessary; provided, further, that \$30,000 shall be expended for the cost associated with providing state police services at Breakheart Reservation; provided further, that \$75,000 shall be expended for the costs of state police patrols along the Charles river esplanade and the Charlesgate area of the city of Boston; provided further, that \$131,520 shall be expended for the costs of state police patrols at Lynn beach, Kings beach, and Nahant beach; provided further, that \$25,000 shall be expended for the costs associated with patrols of the Wollaston beach-Quincy Shore Drive section of the city of Quincy; provided further, that \$300,000 shall be expended	

for the purpose of increased patrols during the months of April to October, inclusive, at Winthrop beach and Winthrop Shore drive in the town of Winthrop, Revere beach in the city of Revere, Constitution beach and Belle Isle marsh in the East Boston section of the city of Boston; provided further, that not less than \$200,000 shall be expended to provide patrols along the southwest corridor, so-called; provided further, that \$25,000 be expended to provide patrols of Blue Hill and Stonybrook reservations and those parklands and roadways under the care and control of the metropolitan district commission patrolled by the state police in the Hyde Park, West Roxbury, Roslindale, and Readville sections of Boston, and in the towns of Canton, Milton and Randolph; provided further, that not less than \$50,000 shall be expended to provide increased patrols during the months of April to October, inclusive, at Mary O'Malley Park in the city of Chelsea; provided further, that not less than \$100,000 shall be expended for the cost of state police patrols for the Neponset River bicycle path in the town of Milton; provided further, that not less than \$127,486 shall be expended for the cost of increased state police patrols during the months of June to September, inclusive, for Nantasket beach in the town of Hull; provided further, that \$46,666 shall be expended for patrols of properties of the metropolitan district commission located along Day Boulevard in the South Boston section of the city of Boston; provided further, that such patrols along Day Boulevard shall be assigned between the hours 8 p.m. and 4 a.m., nightly until November 1, 1998; and provided further, that notwithstanding the provisions of any general or special law to the contrary, all funds appropriated herein shall be scheduled in the AA subsidiary, so-called \$1,518,612

Local Aid Fund 100.0%

8100-9999 For the payment of charges assessed to the department for the payment of workers compensation, unemployment insurance, medicare taxes, the medical security plan and the group insurance commission extended leave chargeback, so-called; provided, that notwithstanding the provisions of any general or special law to the contrary, prior to April 15,

1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the colonel of state police may, with the approval of the secretary of administration and finance, transfer from said DD subsidiary to the KK subsidiary, so-called; or the NN subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the total amount of such assessed changes is fully encumbered and is less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any other items of appropriation; (3) that the department is expected to meet the revenue targets established for fiscal year 1998; and (4) that the department has not expended any funds for the payment of such charges in any other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein \$2,141,478

Highway Fund	88.2%
Local Aid Fund	9.5%
General Fund	2.3%

Criminal Justice Training Council.

8200-0200 For the operation of programs conducted by the Massachusetts criminal justice training council; provided, that said council shall expend an amount up to \$250,000 in accordance with the provisions of chapter 30B of the General Laws, for training and technical assistance for police chiefs; provided further, that such training shall include, but not be limited to, updating of training manuals, review of rules and regulations for police officers, updating of Civil Liability and Injured on Duty handbooks, updating of the chief's Guide to Labor Relations, professional development conference, seminars

and classes and management training; provided further, that the executive director of said council shall submit a report on all specialized training offered by said council; provided further, that said report shall include, but not be limited to, the ongoing need for specialized training of police chiefs and shall identify the estimated cost of providing such training to police chiefs; provided further, that said report shall be submitted to the house and senate committees on ways and means no later than January 1, 1999; provided further, that said council shall train only as many recruits as the appropriation herein allows, while still providing in service training; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount appropriated herein \$3,720,433

Local Aid Fund 100.0%

Department of Public Safety.

- 8311-1000 For the administration of the department and the implementation of chapter 485 of the acts of 1991; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety. \$701,145
- 8312-1000 For the administrative expenses of the bureau of special investigations; provided, that the director of said bureau shall report to the house and senate committees on ways and means no later than December 15, 1998 on the monthly investigator caseload, without disclosing names or other personal identifiers, for fiscal years 1994 through 1998; provided further, that said report shall include the monthly average of the amounts recovered by the commonwealth through successful prosecution, settlement or other disposition of such cases investigated for fiscal years 1994 through 1998; provided further, that said report shall separately delineate said caseload data for the front-end detection program, so-called; provided further, that said report shall state the most recent activity date for each open case assigned to each investigator as of the first business day of each fiscal quarter of fiscal years 1998 and 1999 for which such information is available; and provided

Chap. 194

	further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety	\$935,691
8312-1002	For the salaries of investigators in the bureau of special investigations, including the front-end detection program, so-called; provided, that investigative positions for said front-end detection program shall not be subject to the provisions of chapter 31 of the General Laws; and provided further, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety	\$5,644,575
8315-1000	For the administrative costs of the division of inspections; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety; provided further, that the expenses of the state boxing commission shall be paid from this item; provided further, that not less than \$30,000 shall be made available for an eye examination program for boxers participating in events regulated by the state boxing commission; provided further, that the commission shall charge professional boxers for the cost of such eye exams; provided further, that a doctor's certificate from another state shall be accepted as evidence of such an examination; provided further, that fees for inspections performed during overtime hours shall be determined by the commissioner of administration; provided further, that the fee for inspections performed during overtime hours be not less than \$100; provided further, that the division shall inspect all elevators in the state house and the McCormack and Saltonstall office buildings; and provided further, that not later than September 1, 1998, the secretary of administration and finance shall file with the house and senate committees on ways and means a report detailing the level of resources necessary to carry out the provisions of chapters 143 and 146 of the General Laws	\$1,085,941
8315-1002	For the salaries of department of public safety inspectors, including building inspectors, district engineering inspectors and elevator inspectors; provided, that no funds shall be expended from this item for the salaries of the commissioner or deputy commissioner of public safety;	

provided further, that the department shall hire two additional elevator inspectors in fiscal year 1999 in excess of any such positions approved as of February 1, 1998, and an additional engineer inspector; provided further, that such additional engineer inspector's duties shall include, but not be limited to administering pipefitter license examinations; provided further, that such additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA subsidiary, so-called, of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; and provided further, that this item shall fund 62 and one-half full time equivalent state employees \$2,928,466

8315-1003 For the salaries of the commissioner and deputy commissioner of public safety; provided, that no funds shall be expended from this item until all inspector positions referenced in item 8315-1002 shall be filled or posted to be filled \$139,896

Department of Fire Services.

8324-0000 For the administration of the department of fire services; provided, that notwithstanding the provisions of any general or special law to the contrary, 75 per cent of the amount appropriated herein shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance \$2,025,572

8324-1000 For the operation of the state fire marshal's office; provided, that \$100,000 shall be expended for a Suffolk county arson prevention program; provided further, that notwithstanding the provisions of any general or special law to the contrary, the amount appropriated herein shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that not more than 10 per cent of the amount designated for said arson

Chap. 194

prevention program shall be expended for the administrative cost of said program; provided further, that the expenses of the board of fire prevention regulations, pursuant to section 4 of chapter 22D of the General Laws, shall be paid from this item; provided further, that the expenses of the fire safety commission shall be paid from this item; provided further, that not more than \$75,000 be expended for the administration of a statewide program to provide for critical incident stress intervention for the fire departments of the cities, towns and fire districts of the commonwealth including, but not limited to, consultant services, training, equipment and supplies; provided further, that not less than \$100,000 shall be appropriated for a western Massachusetts office for the state fire marshal at the former Northampton State Hospital; provided further, that the fire marshal shall establish a course for municipal fire personnel in blasting technologies and safety; and provided further, that said fire marshal may establish fees to cover the cost of such course \$740,251

8324-1007 For the operation of the hazardous materials emergency response program \$1,144,368

8324-1101 For the costs of the department for the enforcement of underground storage tank compliance standards set forth in sections 38B to 38I, inclusive, of chapter 148 of the General Laws and the rules and regulations promulgated pursuant thereto \$162,390

Underground Storage Tank Petroleum
Product Clean-up Fund 100.0%

8324-1500 For the fire training program, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of said fire training council; provided, that notwithstanding the provisions of any general or special law to the contrary, the estimated expenses of the administration of the academy, including the estimated expenses of training facilities and curriculum for firefighting personnel and training programs, shall not exceed \$2,599,879 per fiscal year; provided further, that not less than \$48,992 shall be available for the community-based fire prevention program in the Fall River area; provided further, that \$24,779 shall

be expended for equipment for the Newburyport fire department technical rescue team; provided further, that the funds necessary to support this item shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receiving notice of such assessment from the commissioner of insurance; provided further, that not less than \$32,500 shall be provided for the community based fire prevention program in the city of Malden; and provided further, that the secretary of administration and finance shall report monthly to the house and senate committees on ways and means on the justification regarding any restriction on the hiring of fire training personnel and shall explain the derived savings to the Local Aid Fund by not hiring such personnel in this item . . . \$2,599,879
Local Aid Fund 100.0%

Registry of Motor Vehicles.

8400-0001 For the administration and operation of the registry of motor vehicles, including the title division and including all rent and related parking and utility expenses of said registry; provided, that the positions of administrative assistant to the registrar, legislative assistant, executive assistant to the registrar and the director of employee relations shall not be subject to civil service laws and rules; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules by said division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; provided further, that said registry shall operate an office in Fall River; provided further, that said registry shall establish and operate a license express office, so-called, in the city of Lynn; provided further, that during fiscal year 1999, said

registry shall establish and operate a license express office, so-called, in the Grove Hall neighborhood in the city of Boston; provided further, that said registry shall operate an office in the city of Taunton which shall handle license business, learners' permits, road testing and full service registration business to the general public, as provided through April 24, 1998; provided further, that the registry shall establish and maintain a record of all vehicles leased within the commonwealth for a period longer than 30 days; provided further, that such record shall include, but not be limited to, the name of the lessor and the lessee, and the address of the lessor and the lessee, provided further, that the registry shall have an employee or other such person answering all initial incoming telephone calls at the customer phone information center between the hours of 9:00 a.m. and 5:00 p.m.; provided further, that said registry shall report to the house and senate committees on ways and means no later than January 15, 1999 on the actual and projected impacts of the lifetime registration and lifetime license policies on the total revenues collected or projected for collection by said registry during fiscal years 1998, 1999 and 2000; provided further, that said report shall detail the monthly average number of total customer transactions completed in person by branch for fiscal years 1994 through 1998, including the average length of such transactions for the same periods; and provided further, that said registry shall operate within the Springfield branch a one-stop international registration plan office, so-called, for truck registrations to serve the counties or former counties of Hampden, Hampshire, Franklin and Berkshire \$44,195,330

Highway Fund 100.0%

8400-0024 Notwithstanding the provisions of section 2 of chapter 280 of the General Laws, the registry of motor vehicles may expend revenue collected up to a maximum of \$2,300,000 pursuant to chapter 90C of the General Laws from assessments for civil motor vehicle infractions; provided, that the amount of this expenditure shall be subtracted from the amount that otherwise would be credited to the Highway Fund pursuant to said section 2 of said chapter 280 and

shall not affect nor alter the amounts of payments made to cities and towns pursuant to said section 2 of said chapter 280; and provided further, that no costs payable in the AA subsidiary, so-called, shall be charged to this item. . . . \$2,300,000

8400-0033 The registry of motor vehicles may expend revenues collected up to a maximum of \$3,500,000 from the fees charged for driver record access, drunk driver hearings and registration reinstatement; provided, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, said registry may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system; provided further, that all expenditures related to computer automation shall be subject to satisfactory quarterly reviews by the information technology division and pursuant to schedules prepared by said division; provided further, that 40 per cent of the costs of personnel services associated with the registry computer, which reflects the proportionate use of said computer by the merit rating board, shall be assessed to insurance companies doing motor vehicle insurance business within the commonwealth, pursuant to section 183 of chapter 6 of the General Laws; and provided further, that no costs payable in the AA subsidiary, so-called, shall be charged to this item \$3,500,000

Merit Rating Board.

8400-0100 For the operation of the safe driver insurance plan authorized by chapter 6 of the General Laws, including the rent, related parking and utility expenses of the merit rating board; provided, that notwithstanding the provisions of any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for noncriminal motor vehicle traffic violations as described in chapter 90C of the General Laws; and provided further, that not more than \$120,000 shall be expended for the purchase of image scanning hardware and software \$7,313,173

Highway Fund 100.0%

Chap. 194

Committee on Criminal Justice.

8600-0001	For the administration of the committee on criminal justice	\$285,026
8600-0060	For the purchase and distribution of sexual assault evidence collection kits	\$25,000

Military Division.

8700-0001	For the operation of the military division, including the offices of the adjutant general and state quartermaster, the operation of the armories, the camp Curtis Guild rifle range and certain national guard aviation facilities; provided, that notwithstanding the provisions of chapter 30 of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades, so-called; provided further, that the adjutant general shall convene a task force consisting of one member of the house of representatives to be appointed by the speaker of the house, one member of the senate to be appointed by the senate president and one resident of the community surrounding camp Curtis Guild to study and make recommendations regarding the use of firearms at Camp Curtis Guild rifle range and the impact of such firearms on the health and safety of residents of the surrounding communities; and provided further, that said task force shall file a report detailing its recommendations to the house and senate committees on ways and means no later than January 1, 1999	\$6,486,282
	General Fund	50.0%
	Local Aid Fund	50.0%
8700-1140	The state quartermaster may expend revenues collected up to a maximum of \$185,000 accrued from fees for the nonmilitary rental or use of armories for the costs of utilities and maintenance; provided, that the state quartermaster may expend an amount not to exceed \$155,000 for salaries, subsistence, quarters and associated costs for national guard soldiers ordered to perform state missions pursuant to the provisions of chapter 33 of the General Laws, from revenues resulting from the acceptance of funds from any person, governmental entity or nongovernmental entity to defray such expenses	\$340,000

Massachusetts Emergency Management Agency.

- 8800-0001 For the operations of the Massachusetts emergency management agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities; provided further, that not less than \$22,000 shall be available for the fuel, insurance, equipment, maintenance and miscellaneous expenses to sustain the operation of the Massachusetts civil air patrol for aerial surveillance of Massachusetts and other water areas to monitor for environmental pollution discharges, toxic waste dumps, transportation of hazardous materials and wastes and accidents involving such transport, in conjunction with the responsible agency; and provided further, that not less than \$75,000 shall be made available for the federal emergency management agency multi-hazard program, so-called; provided, however, that there shall be at least a 100 per cent match by the federal government \$762,358
- Local Aid Fund 100.0%
- 8800-0100 For the nuclear safety preparedness program of the Massachusetts emergency management agency; provided, that the costs of said program, including fringe benefits and indirect costs, shall be assessed upon Nuclear Regulatory Commission licensees operating nuclear power generating facilities in the commonwealth; provided further, that the department of telecommunications and energy shall develop an equitable method of apportioning such assessments among such licensees; and provided further, that such assessments shall be paid during the current fiscal year as provided by said department and shall be credited to the general fund \$406,101
- Local Aid Fund 100.0%
- 8800-0200 For the Seabrook nuclear safety preparedness program; provided, that the cost of said program shall be assessed on electric companies in Massachusetts which own, in whole or in part, or purchase power from, nuclear power plants located outside the commonwealth whose nuclear power plant areas, as defined in section 2B of chapter 639 of the acts of 1950, include communities located within the commonwealth and shall be credited to the general fund;

provided further, that for the purposes of this item, "electric companies" shall mean all persons, firms, associations and private corporations which own or operate works or a distributing plant for the manufacture and sale or distribution and sale of electricity within the commonwealth; and provided further, that the term "electric company" shall not include municipalities or municipal light plants \$273,518

Governor's Highway Safety Bureau.

- 8850-0001 For the highway safety program to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402 (d) \$223,649
 - Highway Fund 100.0%
- 8850-0015 For the expenses of the motorcycle safety program \$176,888
 - Motorcycle Safety Fund 100.0%

Department of Correction.

- 8900-0001 For the operation of the commonwealth's correctional facilities, including the increased operational costs for the maximum security prison at Shirley; provided, that notwithstanding the provisions of any general or special law to the contrary, no collective bargaining agreement entered into by the commissioner of administration or his designee in fiscal year 1999 shall contain an increase in roll call pay for correction officers; provided further, that the department shall maintain operations of one 12-bed treatment unit for females who are awaiting trial or who have been convicted of a crime and who are in need of detoxification and treatment for chemical dependency or alcoholism; provided further, that contingent upon the receipt of federal funds, not more than \$418,400 shall be expended in fiscal year 1999 for 250 additional substance abuse treatment slots in the department's correctional institutions in excess of the total number of any such slots funded as of March 31, 1998; provided further, that if the department determines that it is necessary to transfer prisoners to facilities outside of the commonwealth, said department shall determine which such available facility is the geographically closest facility that will provide the most cost-effective transfer; provided further, that the

	department of correction shall implement a state-wide post-conviction victim and witness advocacy program provided further, that no less than \$150,000 shall be expended for salaries and employee benefits of five victim and witness advocates; provided further, that such positions shall be in addition to any positions approved as of February 1, 1998; and provided further, that training and technical assistance will be provided and the program will be coordinated, monitored and evaluated	\$286,819,361
8900-0002	For the administration of the department; provided, that employees in the prisoners classification division shall not be subject to civil service law and rules; provided further, that notwithstanding the provisions of any general or special law to the contrary, the director of civil service shall certify to the commissioner of correction, upon receipt of permanent requisitions, names of correction officers to fill permanent vacancies	\$3,991,177
8900-0003	For local relief to mitigate the inordinate fiscal demand placed on local life, health and safety departments in those cities and towns hosting a state correctional facility; provided, that each such city and town shall receive a percentage of the total funds as appropriated herein which shall be equal to the total state inmate population incarcerated within a state correctional facility located within such city or town; provided further, that all inmates incarcerated at Massachusetts Correctional Institution at Shirley-minimum and the Massachusetts Correctional Institution at Shirley-medium, so-called, shall be deemed to be incarcerated within a correctional facility located in the town of Shirley; provided further, that of the number of inmates incarcerated at Massachusetts Correctional Institution at Shirley-maximum, so-called, one-half shall be deemed to be incarcerated within a correctional facility in the town of Shirley and one-half shall be deemed to be incarcerated within a correctional facility in the town of Lancaster; and provided further, that for the purpose of mitigation calculation, all distribution percentages shall be calculated according to the department of correction's average daily inmate population record for the prior fiscal year	\$997,000
	Local Aid Fund	100.0%

Chap. 194

- 8900-0004 For inmate health services; provided, that the commissioner of correction shall file quarterly reports detailing expenditures from this item with the house and senate committees on ways and means; provided further, that the department of correction shall ensure that psychiatric services provided at state correctional facilities, including contracted provider services, shall include a minimum of nine full-time equivalent psychiatrists in addition to any such psychiatric positions assigned to the Bridgewater State Hospital; provided further, that said department shall ensure that inmates who are placed in segregation units, including all segregation units at MCI-Concord, and who are not designated as open mental health cases shall be visited by mental health staff not less than three times weekly; provided further, that said department shall ensure that mental health services provided at each secure state correctional facility, including contracted provider services, shall include a minimum of one doctoral level psychologist or similarly qualified employee; provided further, that said department shall report no later than January 15, 1999 on mental health services in said department; provided further, that said report shall delineate all mental health services positions assigned to each facility and said department's progress in the implementation of each recommendation contained in the January 31, 1997 report submitted by the University of Massachusetts medical center on the department's management of psychiatric services; and provided further, that notwithstanding the provisions of any general or special law to the contrary, expenditures made from the RR subsidiary, so-called, of this item for the contracted provider service costs associated with the purposes of the programs funded herein shall not exceed \$47,195,510 \$48,177,529
- 8900-0007 For the expenses of the community resource centers under contract to or operated by the department; provided, that one such additional community resource center may be located in Bristol county in order to serve the offender population of New Bedford, Fall River and the surrounding communities \$371,524
- 8900-0009 For educational services of the department; provided, that not

Chap. 194

	more than \$150,000 be made available for a literacy educational pilot program at two correctional facilities, one of which shall be the Massachusetts correctional institute at Framingham	\$4,868,573
8900-0010	For prison industries and farm services; provided, that the commissioner of correction shall determine the cost of manufacturing motor vehicle registration plates and certify to the comptroller the amounts to be transferred from the Highway Fund to the general fund; and provided further, that the commissioner of correction shall submit quarterly financial reports detailing revenues generated and expended to the house and senate committees on ways and means. . . .	\$2,473,752
8900-0011	For a prison industries and farm services revenue retention account; provided, that the department may expend an amount not to exceed \$3,067,995 from revenues collected from the sale of products for materials, supplies, equipment, maintenance of facilities and compensation of employees of the program; and provided further, that all expenditures from this item shall be subject to chapter 29 of the General Laws and recorded on the Massachusetts management accounting and reporting system, so-called	\$3,067,995
8900-0015	For correctional residential services; provided, that not less than \$500,000 shall be expended for a contracted low-security residential program for incarcerated expectant mothers; and provided further, that not less than \$150,000 shall be obligated for assistance to incarcerated mothers	\$730,000
8900-0016	For the cost of housing state inmates in federal prisons	\$750,000
8900-9999	For the payment of charges assessed to the department of correction for the payment of workers compensation, unemployment insurance, medicare taxes, medical security plan and the group insurance commission extended leave chargeback, so-called; provided, that, notwithstanding the provisions of any general or special law to the contrary, prior to April 15, 1999 all funds appropriated herein shall be scheduled in the DD subsidiary, so-called; provided further, that after said date, the commissioner of the department of correction may, with the approval of the secretary of administration and finance, transfer from the DD subsidiary to the KK subsidiary, so-called, or the NN	

subsidiary, so-called, of this account, an amount not to exceed 15 per cent of the funds appropriated herein, if the secretary of administration and finance certifies in writing to the house and senate committees on ways and means that the following conditions have been met: (1) that the total amount of such assessed charges is fully encumbered and is less than the amount appropriated herein; (2) that the department does not require any supplemental appropriation in any of its other items of appropriation; (3) that the department is expected to meet the revenue targets established for fiscal year 1998; and (4) that the department has not expended any funds for the payment of such assessed charges in any of its other items of appropriation; provided further, that the secretary of administration and finance shall notify the house and senate committees on ways and means of all transfers of funds between subsidiaries as authorized herein; and provided further, that no funds shall be scheduled to any subsidiary in this account which is not explicitly referenced herein \$12,074,591

County Corrections.

8910-0000 For a reserve to fund county correctional programs; provided, that not more than \$415,000 shall be expended for an intermediate sanctions program at the New Bedford district court; provided further, that not less than \$5,557,082 shall be made available to Barnstable county; provided further, that not less than \$4,118,060 shall be made available to Berkshire county; provided further, that not less than \$22,994,723 shall be made available to Bristol county; provided further, that not less than \$855,201 shall be made available to the county of Dukes county; provided further, that not less than \$20,812,666 shall be made available to Essex county; provided further, that not less than \$1,377,327 shall be made available to Hampshire county; provided further, that not less than \$59,714 shall be made available to Nantucket county; provided further, that not less than \$14,662,462 shall be made available to Norfolk county; provided further, that not less than \$25,575,870 shall be made available to Plymouth county; provided further, that such funds appropriated to Plymouth county

shall be expended for operating and debt service costs associated with state inmates housed in the Plymouth county facility, pursuant to the provisions of clauses 3 and 4 of the Memorandum of Agreement signed May 14, 1992; provided further, that not less than \$69,709,161 shall be made available to Suffolk county; provided further, that the balance of funds appropriated herein shall be distributed among the counties by the county government finance review board, upon prior notification to the house and senate committees on ways and means; provided further, that neither Hampshire nor Suffolk counties shall receive additional funding from said balance for county corrections maintenance and operation expenses; provided further, that funds distributed from this item shall be paid to the treasurer of each county who shall place such funds in a separate account within the treasury of each such county; provided further, that the treasurer shall authorize temporary transfers into this account for operation and maintenance of jails and houses of correction in advance of receipt of the amount distributed by the state under this item; provided further, that upon receipt of the state distribution, the treasurer shall be authorized to transfer out of such account an amount equal to the funds so advanced; provided further, that all funds deposited in such accounts and any interest accruing thereto shall be used solely for the functions of the sheriffs' departments of the various counties including, but not limited to, maintenance and operation of jails and houses of correction, without further appropriation; provided further, that the sheriff's department of each county shall reimburse the county treasurer of each county for personnel-related expenses, with the exception of salaries, attributable to the operations of the sheriff's department of each county heretofore paid by the county including, but not limited to, the cost of employee benefits; provided further, that the spending plans required by this item shall be developed by the county government finance review board, in consultation with the Massachusetts Sheriffs' Association; provided further, that in accordance with section 247 of chapter 38 of the acts of 1995, all spending plans shall be detailed by

subsidiary and object code in accordance with any and all expenditure classification requirements promulgated by the comptroller; provided further, that such spending plans shall be accompanied by a delineation of all personnel employed by each county correctional facility including, but not limited to, position, title, classification, rank, grade, salary and full-time or part-time status; provided further, that such spending plans shall be accompanied by a delineation of all vehicles leased, owned or operated by each county sheriff; provided further, that such delineation shall include vehicle make and model, year, mileage, condition, date purchased or leased and vehicle primary use; provided further, that no sheriff shall purchase any new vehicles or major equipment in fiscal year 1999 unless such purchase is made pursuant to a multicounty or regionalized collaborative procurement arrangement or unless such purchase is directly related to significant population increase or is otherwise necessary to address an immediate and unanticipated public safety crisis, and is approved by the county government finance review board and the executive office of public safety; provided further, that notwithstanding the provisions contained herein, sheriffs may purchase "marked" prisoner transportation vans, so-called, upon notification to the county government finance review board; provided further, that the county government finance review board and the executive office of public safety shall identify and develop county correction expenditures which shall be reduced through shared contracts, regionalized services, bulk purchasing and other centralized procurement savings programs; provided further, that documentation of such expenditures and savings shall be submitted to the house and senate committees on ways and means not later than December 30, 1998 and shall make provision for such system of shared contracts, regionalized services, bulk purchasing and other centralized procurement savings to take effect no later than June 30, 1999; provided further, that the daily count sheet for county facilities, so-called, compiled by the executive office of public safety, shall be filed with the Massachusetts Sheriffs' Association not less than monthly;

provided further, that all revenues including, but not limited to, revenue received from housing federal prisoners, United States Marshals, canteen revenues, inmate industries and work-crew revenues shall be tracked and reported quarterly to the house and senate committees on ways and means and the Massachusetts Sheriff's Association; provided further, that on or before August 15, 1998, each county sheriff shall submit a final spending plan for fiscal year 1999 to the county government finance review board, detailing the level of resources deemed necessary for the operation of each county correction facility and the expenditures which shall be reduced to remain within the appropriation; provided further, that failure by a county sheriff to comply with any provision of this item shall result in a reduction of subsequent quarterly payments to amounts consistent with a rate of expenditure of 95 per cent of the rate of expenditure for fiscal year 1998, as determined by the county government finance review board; provided further, that each sheriff shall submit to the executive office of public safety and the house and senate committees on ways and means copies of such spending plans not later than August 15, 1998; provided further, that on or before September 15, 1998, the county government finance review board shall have approved final fiscal year 1999 county corrections budgets; provided further, that the county government finance review board shall provide the executive office of public safety and the house and senate committees on ways and means with copies of such approved budgets not later than October 15, 1998; provided further, that such budgets shall include distribution schedules for the final two quarters of fiscal year 1999 and such plans shall be used to make all subsequent quarterly distributions; provided further, that services shall be provided to the extent determined to be possible within the amount appropriated herein and each sheriff shall make all necessary adjustments to ensure that expenditures do not exceed said appropriation; provided further, that each county shall expend during fiscal year 1999, for the operation of county jails and houses of correction and other statutorily authorized facilities and

functions of the office of the sheriff, in addition to the amount distributed from this item, not less than 102.5 per cent of the amount expended in fiscal year 1998 for such purposes from own-source revenues, which shall not be less than 5 per cent of total county revenues including, but not limited to, amounts levied pursuant to sections 30 and 31 of chapter 35 of the General Laws and amounts provided pursuant to sections 11 to 13, inclusive, of chapter 64D of the General Laws; provided further, that in fiscal year 1999, those counties which have not met maintenance of effort obligations in prior fiscal years shall expend not less than the minimum contribution, as defined above from own-source revenues; provided further, that notwithstanding the provisions stated herein, the maintenance of effort obligations for Suffolk county shall be 6.875 per cent of the total fiscal year 1999 Suffolk county corrections operating budget as approved by the county government finance review board; provided further, that notwithstanding the provisions of any general or special law to the contrary, the deputy commissioner of revenue for local services shall certify on or before May 15, 1999 that all municipalities have appropriated and transferred to their respective county treasuries, not less than 102.5 of the municipality's prior year obligations or minimum contributions as defined above, whichever is greater, for county corrections; provided further, that if a municipality fails to transfer such obligation, said deputy commissioner shall withhold an amount equal to the shortfall in the obligation due to the county from such municipality's fourth quarter local aid "cherry sheet" distribution, so-called, authorized from account 0611-5500 of section 2 and from funds made available from the state lottery fund distribution in section 3; provided further, that on or before August 1, 1999, said commissioner shall report all such withholdings to the house and senate committees on ways and means; provided further, that in fiscal year 1999, notwithstanding the provisions of section 20A of chapter 59 of the General Laws, any county except Suffolk and Nantucket may increase its county tax for said fiscal year by an additional amount if the total amount of

such additional county tax is approved by two-thirds of the cities and towns in the county, in towns by a majority vote of the town meeting or town council, and in cities by a majority vote of the city council or board of aldermen, with the approval of the mayor or manager; provided further, that any county which borrowed under the provisions of section 6 of chapter 193 of the acts of 1989 on or before July 31, 1989 or which borrowed in fiscal year 1989 under the provisions of section 36A of chapter 35 of the General Laws, is hereby authorized to refund such debt for a term not to exceed seven years from the date of the original loan with payments on such refunding loan to be made in accordance with the provisions of said chapter 35 and said section 12 of said chapter 64D, as may be applicable; and provided further, that each sheriff shall continue to report all expenditures on the Massachusetts management accounting reporting system, so-called, in accordance with the latest expenditure classification requirements promulgated by the state comptroller pursuant to the provisions of section 27 of chapter 29 of the General Laws \$181,656,979

Local Aid Fund 100.0%

8910-0010 For the purpose of funding expenses for services provided to inmates of county correctional facilities by the department of public health Lemuel Shattuck hospital in fiscal year 1999; provided, that said department shall notify the county government finance review board and the comptroller of all such expenses; provided further, that not more than 30 days after receiving such notification, said board shall certify to the comptroller the amount of such expenses to be charged to this item; provided further, that upon receiving such certification, the comptroller shall effect the transfer of such amount from this item to item 4590-0903 in section 2B; and provided further, that such actual and projected payments shall be considered expenditures within each county spending plan and shall be reflected as such in proposed spending plans required by 8910-0000 in section 2 \$1,497,283

Local Aid Fund 100.0%

Chap. 194

Sheriffs.

8910-0102	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampden county	\$43,744,147
8910-0104	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Hampshire county	\$6,886,636
8910-0105	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Worcester county	\$28,871,368
8910-0107	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Middlesex county	\$38,607,505
8910-0108	For the operation of the jail, house of correction and any other statutorily authorized facilities and functions under the administration of the office of the sheriff of the former Franklin county	\$5,761,026

Parole Board.

8950-0001	For the operation of the parole board; provided, that not less than \$261,000 shall be expended for the pathways pro- gram, so-called, to include direct linkages and interagency agreements for the provision of services with the appropriate workforce development agencies	\$13,072,463
8950-0002	For the victim and witness assistance program of the parole board, in accordance with the provisions of chapter 258B of the General Laws	\$211,202
	Victim Witness Assistance Fund	100.0%

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-0100	For the operation and administration of the executive office of elder affairs; provided, that the secretary of elder affairs shall work with the commissioner of medical assistance	
-----------	---	--

and the deputy purchasing agent of the division of purchased services to identify all home care services which meet the federal definition of personal care services in 42 CFR 440.170(f) and case management in 1915(g) of Title XIX, and to seek federal matching funds for such services furnished to persons eligible for medical assistance under the provisions of chapter 118E of the General Laws which are not presently reimbursed; provided further, that the secretary of elder affairs shall seek private funding of not more than \$37,000 for the elder advocacy organization known as the silver-haired legislature; provided further, that said organization shall be allocated one-half of one full-time equivalent staff person for the purpose of providing secretarial and clerical support for said organization; provided further, that the executive office of elder affairs shall enter into an interagency service agreement with the department of veterans' services to maximize revenues by identifying individuals who are eligible for veterans' pensions and are currently receiving home care and home health services; provided further, that not more than \$100,000 shall be provided for an interdepartmental service agreement with the University of Massachusetts at Lowell to support research activities of the university performed during fiscal year 1999 on or after the effective start date of such interdepartmental service agreement, which investigate the causes and potential cures for Alzheimer's disease and associated forms of dementia; and provided further, that said university shall file a report on the results of the research conducted with funds provided by such interdepartmental service agreement with the clerks of the house of representatives and the senate and the house and senate committees on ways and means on or before June 30, 1999 \$1,981,096

9110-0102 For the regulation of assisted living facilities; provided, that the executive office of elder affairs shall report quarterly to the house and senate committees on ways and means the number of assisted living units certified and the total revenues generated from application and certification fees for such units \$226,613

Assisted Living Administrative Fund 100.0%

Chap. 194

- 9110-1603 For managed care in housing for individuals at risk of institutionalization due to functional impairments not of sufficient severity to meet medicaid nursing home clinical admissions criteria; provided, that such individuals shall be subject to the same rules and regulations as clients served under item 9110-1630; and provided further, that no rate increase for managed care services shall be awarded in fiscal year 1999 which would cause a reduction in client services or in the number of clients served \$8,592,668
- 9110-1630 For contracts with aging service access points, so-called, or other qualified entities for the home care program including home care, health aides, home health and respite services and other services provided to the elderly; provided, that a sliding fee shall be charged to qualified elders; provided further, that the secretary of elder affairs may waive collection of such sliding fees in cases of extreme financial hardship; provided further, that not more than \$4,500,000 in revenues accrued from such sliding fees shall be retained by the individual home care corporations without reallocation by the executive office of elder affairs and shall be expended for the purposes of the home care program, consistent with guidelines to be issued by said executive office; provided further, that said executive office shall report quarterly to the house and senate committees on ways and means on the receipt and expenditure of revenues accrued from such sliding fees; provided further, that the executive office shall report monthly to the house and senate committees on ways and means and the executive office of administration and finance on the amount expended from this item and item 9110-1634 for purchase of service expenditures by category of service as set forth in 651 CMR 3.01 and 651 CMR 3.06; provided further, that no rate increase shall be awarded in fiscal year 1999 which would cause a reduction in client services or the number of clients served; and provided further, that no funds shall be expended from this item to pay for any salary increases for direct service workers who provide state-funded homemaker and home health aid services; which would cause a reduction in client services \$82,040,871
- 9110-1633 For contracts with aging service access points, so-called, or

Chap. 194

	other qualified entities for home care case management services and the administration of the home care corporations funded through item 9110-1630 and item 9110-1603 of section 2; provided, that such contracts shall include the costs of administrative personnel, home care case managers, travel, rent and any other costs deemed appropriate by the executive office of elder affairs	\$32,294,458
9110-1634	The executive office may expend an amount not to exceed \$3,000,000 from federal revenues collected pursuant to the provisions of Title XIX of the Social Security Act for case management and personal care and related services provided to Medicaid-eligible home care clients; provided, that not more than \$1,000,000 may be expended pursuant to the provisions of item 9110-1630; and provided further, that not more than \$2,000,000 may be expended pursuant to the provisions of item 9110-1633	\$3,000,000
9110-1636	For the elder protective services program, including protective services case management, the statewide elder abuse hotline, guardianship services and the elder-at-risk program; provided, that \$180,000 shall be expended for the money management program for the elderly	\$6,481,394
9110-1660	For congregate and shared housing services for the elderly; provided, that not less than \$50,000 shall be expended for congregate housing services at the Tuttle House facility in the Dorchester section of the city of Boston; and provided further, that \$75,000 shall be expended for a resident coordination program administered by the Committee to End Elder Homelessness, Inc.	\$1,448,474
9110-1900	For local services; provided, that all funds appropriated under this item for an elder service corps shall be for corpsmen stipends, for the cost of mailing corpsmen stipends and for corpsmen participation in group insurance programs, as set forth in chapter 1168 of the acts of 1973; provided further, that the stipend for full-time corpsmen shall not exceed the maximum allowed under earnings limitation sections of the Social Security Act and the stipend for part-time corpsmen shall not exceed \$130 per month; provided further, that not less than \$4,075,387 shall be obligated for the administration of a meals program for elderly persons; provided further, that the executive office of elder affairs	

Chap. 194

shall maximize federal reimbursement for meals funded herein; provided further, that \$30,000 shall be obligated for a youth/elder outreach position at the Roche Family Community Center in the West Roxbury section of the city of Boston; and provided further, that not less than \$20,000 shall be expended for the Grandparents as Parents Initiative, so-called \$5,268,573

Local Aid Fund 100.0%

9110-9002 For the local services program for grants to the councils on aging and for grants to or contracts with nonpublic entities which are consortia or associations of councils on aging; provided, that notwithstanding the foregoing, all monies appropriated herein shall be expended in accordance with the distribution schedules for formula and incentive grants established by the secretary; provided further, that such distribution schedules shall be submitted to the house and senate committees on ways and means; and provided further, that not less than \$15,000 shall be obligated for the Massachusetts senior games \$5,800,000

Local Aid Fund 100.0%

LEGISLATURE.

Senate.

0185-7888 For the additional expenses of the senate committee on ways and means which are associated with the review and study of the commonwealth's health care systems, pension systems, organizational structure and other policy areas, prior appropriation continued.

9511-0000 For the compensation of senators; provided, that notwithstanding the provisions of any other general or special law to the contrary, the funds appropriated herein shall be expended only in accordance with the provisions of section 3 of chapter 192 of the acts of 1994, as amended, prior appropriation continued \$2,279,400

9511-8000 For expenses of senators, including travel, prior appropriation continued \$228,000

9512-0000 For the office of the senate clerk, prior appropriation continued \$794,563

9512-0100 For in-house printing, duplicating and other expenses, prior

Chap. 194

	appropriation continued	\$99,072
9514-0000	For the office of the senate counsel, prior appropriation continued	\$590,000
9515-0000	For administrative and legislative aides to the senators, including the salary of the chaplain of the senate, prior appropriation continued	\$5,700,000
9515-0100	For the cost of universal health insurance, unemployment, Medicare and workers' compensation charges assessed against the employees of the senate, prior appropriation continued	\$198,000
9516-0000	For administrative, secretarial and clerical assistance to the senators, prior appropriation continued	\$1,860,000
9516-0030	For a legislative intern and service program for the senate, prior appropriation continued	\$325,000
9517-0000	For the office of the senate committee on ways and means, prior appropriation continued	\$1,122,612
9518-0000	For the office supplies and other expenses of the senators, prior appropriation continued	\$1,100,000
9519-5000	For the salaries of court officers and pages of the senate, prior appropriation continued	\$1,284,000
9519-6000	For the office of legislative post audit and oversight bureau of the senate, prior appropriation continued	\$355,000
9519-7000	For legislative committee services for the senate, prior appropriation continued	\$1,650,000
9519-7500	For the automation of senate offices, prior appropriation continued	\$225,000
9519-8000	For the expenses of televising sessions of the senate, prior appropriation continued	\$240,000

House of Representatives.

9621-0000	For the compensation of representatives; provided, that notwithstanding the provisions of any other general or special law to the contrary, the funds appropriated herein shall be expended only in accordance with the provisions of section 3 of chapter 192 of the acts of 1994, as amended, prior appropriation continued	\$7,875,600
9622-8000	For expenses of representatives, including travel, prior appropriation continued	\$926,000

Chap. 194

9623-0000	For the office of the clerk of the house of representatives, prior appropriation continued	\$582,496
9624-0000	For the salary of the chaplain of the house of representatives, prior appropriation continued	\$17,973
9625-0000	For the office of the house counsel, prior appropriation continued	\$1,055,791
9626-0000	For the office of the house committee on rules, prior appropriation continued	\$1,346,352
9626-0010	For repairs and renovations, prior appropriation continued	\$186,000
9627-0050	For the cost of universal health and unemployment insurance, Medicare and workers' compensation charges assessed against the employees of the house of representatives, prior appropriation continued	\$506,449
9627-0100	For a legislative intern and service program for the house of representatives, prior appropriation continued	\$400,000
9628-0000	For the office of the house committee on ways and means, prior appropriation continued	\$1,349,034
9628-0010	For certain renovations and improvements to the house committee on ways and means, including the costs of data processing services, equipment and personnel, prior appropriation continued.	
9628-0020	For the performance oversight component of the house ways and means committee, including the cost of travel as may be authorized and approved in writing by the chair of said house committee on ways and means, prior appropriation continued.	
9629-0000	For clerical and other expenses of the members of the house of representatives, prior appropriation continued	\$2,942,429
9630-0020	For administrative and legislative aides to the members of the house of representatives, prior appropriation continued	\$4,310,175
9631-0021	For the two administrative assistants to work within the county in which they reside under the direction of the elected representative from the Cape and Islands district; provided, that such assistants shall be residents of the districts; provided further, that each such assistant shall reside in separate counties and neither shall reside in the county in which the elected representative resides; and provided further, that such assistants shall be appointed by such	

Chap. 194

	elected representative, prior appropriation continued	\$57,457
9632-0040	For office supplies and other expenses of the house of representatives, prior appropriation continued	\$638,824
9633-0000	For the expenses of televising sessions of the house of representatives, prior appropriation continued	\$559,207
9634-2000	For the expenses related to the house information systems, including maintenance of data and telecommunications equipment, prior appropriation continued	\$154,349
9634-3000	For the salaries of court officers and pages of the house of representatives, prior appropriation continued	\$786,945
9634-4000	For the expenses of the office of the house committee on personnel administration, prior appropriation continued	\$34,452
9634-5000	For legislative committee services for the house of representatives, prior appropriation continued	\$5,483,388
9634-6000	For the office of legislative post audit and oversight bureau of the house of representatives, prior appropriation continued.	\$668,218
9636-0000	For the legislative service bureau, prior appropriation continued	\$365,142

Sergeant At Arms.

9731-0000	For the office of the sergeant-at-arms, prior appropriation continued	\$374,390
9731-0050	For the cost of universal health and unemployment insurance, Medicare and workers' compensation charges assessed against the employees of the joint legislative committees, prior appropriation continued	\$285,687
9734-1000	For the salaries of clerks employed in the legislative document room, including other joint legislative expenses, prior appropriation continued	\$176,570
9735-0000	For contingent expenses of the senate and house of representatives and necessary expenses in and about the state house, with the approval of the sergeant-at-arms, prior appropriation continued	\$180,100
9736-0000	For the rental, maintenance and updating of an electric roll call system, prior appropriation continued	\$22,532

Joint Legislative Expenses.

9738-0001	For the administration of the office of legislative data processing, prior appropriation continued	\$750,000
-----------	--	-----------

Chap. 194

- 9739-0003 For the compilation, indexing, annotating, printing and other expenses in connection with the publication of the bulletin of committee hearings and of the daily list, with the approval of the joint committee on rules, including other joint legislative expenses, prior appropriation continued \$167,167
- 9742-0000 For the administration of the legislative engrossing division, prior appropriation continued \$248,199
- 9743-0000 For printing, binding and paper ordered by the senate and house of representatives, or by concurrent order of the two branches, for printing the manual of the general court, with the approval of the clerks of the respective branches, and for biographical sketches of certain state and federal officials and other expenses, prior appropriation continued. . . . \$1,051,858
- 9744-1000 For joint legislative data processing and telecommunications equipment and services, prior appropriation continued.
- 9746-0000 For the expenses of the joint committees on rules and for clerical and other assistance to the joint committees, prior appropriation continued \$174,242
- 9747-0010 For the expenses of joint standing and special committees authorized by joint order to sit and travel during the session and recess of the general court, said funds to be allocated to committees only upon written approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued \$38,054
- 9748-0000 For membership fees and programs of legislative associations for the general court, with the approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued \$250,000
- 9749-0000 For the expenses of the special commission on financial services, established by section 111 of chapter 240 of the acts of 1989; provided, however, that this appropriation shall be fully funded by assessments on depository, non-depository and other financial institutions, prior appropriation continued.
- 9749-0100 For the expenses of the joint committee on redistricting, prior appropriation continued.
- 9749-0200 For the expenses of the study authorized by section 43 of chapter 142 of the acts of 1991; provided, that the expenditure of funds appropriated herein shall be contin-

Chap. 194

gent upon the prior receipt of private donations equal to or greater than said expenditure; provided further, that such donations shall be deposited in the general fund, prior appropriation continued.

9750-0000 For the study conducted pursuant to section 416 of this act \$250,000

NO SECTION 2A.

SECTION 2B. Notwithstanding the provisions of any general or special law to the contrary, the agencies listed in this section may expend such amounts as are listed in this section for the provisions of services to agencies listed in section 2; provided, that all expenditures made pursuant to this section shall be accompanied by a corresponding transfer of funds from an account listed in section 2 to the Intragovernmental Service Fund, established pursuant to section 2Q of chapter 29 of the General Laws; provided further, that no expenditures shall be made from said Intragovernmental Service Fund which would cause said fund to be in deficit at the close of fiscal year 1999; provided further, that all authorizations in this section shall be charged to said Intragovernmental Service Fund; and provided further, that any balance remaining at the close of fiscal year 1999 shall be transferred to the General Fund.

SECRETARY OF STATE.

Office of the Secretary of State.

- 0511-0003 For the costs of providing electronic and other publications purchased from the state bookstore, for commission fees, notary fees and for direct access to the secretary's computer library \$25,000
- 0511-0235 The secretary of state may receive compensation revenues from other state agencies including the judicial branch for the destruction of their obsolete records by the records center where appropriate; provided, that the secretary of state may expend revenues not to exceed \$100,000 from such funds received for the costs of such obsolete record destruction; and provided further, that such fees shall be charged on an equitable basis \$100,000

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of Dispute Resolution.

- 1100-1108 For the office of dispute resolution for the costs of mediation and other services provided to certain agencies \$300,000

Bureau of State Office Buildings.

- 1102-3333 For the operation and maintenance of state buildings,

including reimbursement for overtime expenses, materials and contract services purchased in performing renovations and related services for agencies occupying state buildings or for services rendered to approved entities utilizing state facilities \$20,000

Reserves.

- 1599-2040 For the payment of prior year deficiencies, so-called, based upon schedules provided to the house and senate committees on ways and means; provided, that the comptroller may charge departments' current fiscal year appropriations and transfer to such item amounts equivalent to the amounts to any prior year deficiency, so-called, subject to the conditions stated herein; provided further, that the comptroller shall only assess chargebacks to those current fiscal year appropriations when the account to which the chargeback is applied is the same account to which the prior year deficiency pertains, or if there is no such account, to the current fiscal year appropriation for the general administration of the department that administered the account to which the prior year deficiency pertains; provided further, that no chargeback shall be made which would cause a deficiency in any current fiscal year item of appropriation; provided further, that the comptroller shall report with such schedule a detailed reason for the prior year deficiency on all chargebacks assessed that exceed \$1,000 including the amount of the chargeback, the item of appropriation and subsidiary charged; and provided further, that the comptroller shall report on a quarterly basis on all chargebacks assessed, including the amount of the chargeback, the item of appropriation and subsidiary charged, and the reason for the prior year deficiency \$5,000,000
- 1599-3100 For the cost of the commonwealth's employer contributions to the unemployment compensation fund and the medical security trust fund; provided, that the secretary of administration and finance shall authorize the collection, accounting and payment of such contributions; provided further, that in executing these responsibilities the state comptroller is authorized to charge in addition to individual appropriation accounts certain non-appropriated funds

- in amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense, or related charges \$10,934,132
- 1599-3102 For the cost of the commonwealth's employer contributions for unemployment health insurance; provided, that the secretary of administration and finance shall authorize the collection, accounting, and payment of such contributions; provided further, that in executing these responsibilities the comptroller may charge, in addition to individual appropriation accounts, certain non-appropriated funds amounts that are computed on the same basis as the commonwealth's contributions are determined, including expenses, interest expense, or related charges \$1,400,000

Division of Human Resources.

- 1750-0101 For the cost of goods and services rendered in administering training programs, including the cost of training unit staff; provided, that the division of human resources may collect a \$75 administrative fee from vendors who submit proposals in response to requests for proposals for the commonwealth of Massachusetts master service agreement for specialized training and consultation services at the time of proposal submission; provided further, that any vendor who fails to deliver the appropriate administrative fee with its submission shall be deemed non-responsive and its proposal shall not be considered for contract award; provided further, that the division shall charge to other items of appropriation for the cost of participants enrolled in programs sponsored by the division, or to state agencies employing such participants; and provided further, that the division may collect from participating state agencies a fee sufficient to cover administrative costs of the commonwealth's performance recognition programs and to expend such fees for goods and services rendered in the administration of these programs \$1,172,085
- 1750-0105 For the cost of workers' compensation paid to public employees; provided, that the secretary of administration and finance shall charge, pursuant to section 323, other items of appropriation or state agencies for cost incurred on behalf of said agencies; provided further, that said

Chap. 194

secretary may transfer workers' compensation-related fringe benefit assessments from federal grants and trust accounts to this item; provided further, that said secretary shall identify charges by said item of appropriation; provided further, that not more than \$709,392 shall be used for the compensation of employees; provided further, that said secretary shall file quarterly reports with the house and senate committees on ways and means detailing said items, including federal grants and trust accounts, that have not yet paid their charges, and the reasons why, within three weeks of the close of each quarter; provided further, that no funds shall be expended from this item that would cause said item to be deficient; and provided further, that said secretary shall provide projected costs of workers' compensation costs incurred by agencies in fiscal year 2000 to the house and senate committees on ways and means not later than February 27, 1999 \$45,709,392

1750-0106 For the workers' compensation litigation unit, including the costs of personnel \$499,379

1750-0110 For the payment of fees by user agencies to arbitrators selected by the commonwealth to hear and decide final and binding arbitration cases for grievances filed pursuant to the provisions of chapter 150E of the General Laws \$10,000

Division of Operational Services.

1775-0800 For the purchase, operation and repair of certain vehicles and for the cost of the operation and maintenance of all vehicles that are leased by other agencies, including the costs of personnel \$5,186,762

1775-0901 For the development of a cost savings plan to facilitate the purchase of electricity and natural gas by the commonwealth and its political subdivisions consistent with the municipal aggregation and volume purchasing provisions of chapter 164 of the acts of 1997; provided, however, that said plan shall include, but not be limited to, the identification of the public entities projected to benefit from said program, a detailed description of the uniform procurement procedures and options available to such entities to achieve said savings, a description of the efforts of other states to generate costs savings from utility

	deregulation, the projected amount of savings from said program, a detailed time frame for the development and implementation of said program, a spending plan detailed by subsidiary and object code necessary to implement said program, and any recommendations, including legislation necessary to effectuate the orderly implementation of said program; and provided, further, that the division shall file said plan with the house and senate committees on ways and means not later than November 15, 1998	\$400,000
1775-1000	For the provision of printing, photocopying, and related graphic art or design work, including all necessary incidental expenses and liabilities; provided, that the commissioner of administration shall charge to other items of appropriation within the agencies of the executive branch for such services, including the costs of personnel	\$1,600,843

Division of Information Technology.

1790-0200	For the cost of computer resources and services provided by the information technology division in accordance with the policies, procedures and rates approved by the secretary for administration and finance, including the purchase, lease or rental of telecommunications lines, services and equipment, that are centrally billed to the commonwealth; provided, that said secretary shall charge other items of appropriation for the cost of said resources and services; provided further, that notwithstanding the provisions of any general or special law to the contrary, charges for the cost of computer resources and services provided by the bureau of computer services for the design, development, and production of reports and information required for the analysis and development of appropriations bills shall not be charged to any item of appropriation of the house of representatives, the senate or any joint legislative account in fiscal year 1999; provided further, that the bureau shall submit quarterly reports to the house and senate committees on ways and means summarizing each agency's charges and payments for the preceding quarter for this item; and provided further, that the secretary for administration and finance is authorized to establish regulations, procedures and a schedule of fees to further implement this section including, but not limited to, the development and	
-----------	---	--

Chap. 194

	distribution of forms and instructions, including the costs of personnel	\$14,603,468
1790-0400	For the purchase, delivery, handling of, and contracting for, supplies, postage, and related equipment and other incidental expenses provided pursuant to the provisions of section 51 of chapter 30 of the General Laws	\$1,973,250

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS

Office of the Secretary.

2001-1002	For the costs of data processing and related computer and mapping services, the distribution of digital cartographic and other data, the review of environmental notification forms pursuant to the Massachusetts Environmental Policy Act, and for the staff and printing of the MEPA Monitor	\$350,000
-----------	--	-----------

Department of Fisheries, Wildlife, and Environmental Law Enforcement.

2350-0102	For the costs of overtime and special details provided by the department of fisheries, wildlife, and environmental law enforcement's division of environmental law enforcement.	\$160,000
-----------	--	-----------

Metropolitan District Commission.

2410-1002	For the costs of operating the commission's telecommunications system; provided, that nothing in this section shall diminish or impair the rights of access or utilization of all current users of the system pursuant to agreements which have been entered into with the commission	\$100,000
2410-1003	For the costs of the purchase of fuel, oil and other associated products for other state agencies	\$400,000

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0122	For the costs of interpreter services provided by staff of the commission; provided, that the costs of personnel may be charged to this item; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the commission may incur expenses and the comptroller may certify for payments amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system	\$185,000
-----------	--	-----------

Department of Public Health.

- 4590-0901 For costs of medical services provided at public health hospitals pursuant to a schedule of services and fees approved by the commissioner of public health, which may be expended for the purposes of hospital related costs, including capital expenditures and motor vehicle replacement \$150,000

- 4590-0903 For the expenses of medical services provided at the department of public health Lemuel Shattuck hospital to inmates of county correctional facilities; provided, that the expenses so incurred shall be charged to items 8910-0010, 8910-0102, 8910-0104, 8910-0105, 8910-0107, and 8910-1008 pursuant to the provisions contained therein; provided further, that not more than \$2,400,000 in expenses shall be so incurred; provided further, that the department may expend the amounts transferred to this item for purposes of hospital related costs, including capital expenditures and motor vehicle replacement without further appropriation; and provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses and the comptroller may certify for payment amount not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system \$2,400,000

Department of Mental Retardation.

- 5948-0012 For residential support services provided by the department for the purposes of supplementing educational services provided in item 7061-0012 of section 2 \$6,000,000

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.

Massachusetts Aeronautics Commission.

- 6006-0010 For the costs of air transportation services, including the costs of personnel \$20,000

Department of Highways.

- 6030-7501 For the costs of the purchase of bulk fuel for certain vehicles under the authority of the department of procurement and general services, and the costs of purchased fuel for other agencies and for certain administrative expenses related to purchasing and distributing the fuel \$300,000

OFFICE OF LABOR, EDUCATION AND WORKFORCE DEVELOPMENT.

Department of Education.

7053-2101 For the costs of USDA commodity foods pursuant to federal law requirements \$100,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

State Police.

8100-0002 For the costs of overtime associated with requested police detail; provided, however, for the purpose of accommodating discrepancies between the receipt of revenues and related expenditures, the department may incur expenses, and the comptroller may certify for payment, amounts not to exceed the lower of this authorization or the most recent revenue estimate therefor as reported in the state accounting system \$2,000,000

Military Division.

8700-1145 For the costs of utilities and maintenance and for the implementation of energy conservation measures with regard to the state armories \$200,000

Department of Correction.

8900-0021 For the costs of products produced by the prison industries and farm program and for the costs of services provided by inmates, including the cost of moving, auto repair, culinary, and renovation and construction services; provided, that the cost for such renovation and construction services shall not exceed the amount established by the department of procurement and general services; provided further, that such revenues may also be expended for materials, supplies, equipment, maintenance of facilities and compensation of employees and for the inmate employment and training program \$5,550,000

NO SECTION 2C.

SECTION 2D. The amounts set forth in this section are hereby appropriated from the General Federal Grants Fund. Federal funds received in excess of the amount appropriated in this section shall be expended only in accordance with the provisions of section 6B of chapter 29 of the General Laws. The amount of any unexpended balance of federal grant funds received prior to June 30, 1998, and not included as part of an appropriation item in this section, is hereby made available for expenditure during fiscal year 1999, in addition to any amount appropriated in this section.

DISTRICT ATTORNEYS.

Suffolk District Attorney.

0340-0152	For the purposes of a federally funded grant entitled, Comprehensive Gang Initiative	\$100,000
-----------	---	-----------

OFFICE OF THE SECRETARY OF STATE.

0526-0105	For the purposes of a federally funded grant entitled, Massachusetts Statewide Historical Survey and Plan	\$10,000
0526-0114	For the purposes of a federally funded grant entitled, Historic Preservation Survey and Planning	\$496,000
0526-0115	For the purposes of a federally funded grant entitled, Massachusetts Historical Commission & Federal Preservation Grants	\$275,000
0526-0117	For the purposes of a federally funded grant entitled, Gloucester National Register of Historic Places Nomination	\$15,000

OFFICE OF THE TREASURER AND RECEIVER GENERAL.

Massachusetts Cultural Council.

0640-9717	For the purposes of a federally funded grant entitled, Basic State Plan	\$408,800
0640-9718	For the purposes of a federally funded grant entitled, Arts in Education	\$66,000
0640-9724	For the purposes of a federally funded grant entitled, Arts in Underserved Communities	\$43,800

ATTORNEY GENERAL.

0810-6646	For the purposes of a federally funded grant entitled, Crime Victim Compensation	\$1,321,000
0810-6658	For the purposes of a federally funded grant entitled, Weed and Seed	\$175,000

Victim Witness Assistance Board.

0840-0110	For the purposes of a federally funded grant entitled, Crime Victim Assistance	\$5,000,000
-----------	---	-------------

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Administering Agency for Developmental Disabilities.

1100-1703	For the purposes of a federally funded grant entitled,	
-----------	--	--

Chap. 194

Implementation of the Federal Developmental Disabilities Act; provided, that in order to qualify for said grant, this item shall be exempt from the first \$102,623 of fringe benefit charges pursuant to section 6B of chapter 29 of the General Laws \$1,530,348

1100-1710 For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Council Service grant; provided, that in order to qualify for said grant, this item shall be exempt from the first \$83,089 of fringe benefit charges pursuant to section 6B of chapter 29 of the General Laws \$400,000

Office on Disability.

1107-2450 For the purposes of a federally funded grant entitled, Client Assistance Program \$207,000

Massachusetts Commission Against Discrimination.

1150-5109 For the purposes of a federally funded grant entitled, Fair Housing Initiative Program-Type V \$40,000

Department of Revenue.

1201-0103 For the purposes of a federally funded grant entitled, Linking State Administrative Data \$102,753

1201-0104 For the purposes of a federally funded grant entitled, Joint Federal/State Motor Fuel Tax Compliance Project \$118,366

1201-0107 For the purposes of a federally funded grant entitled, Non-Custodial Parents and their Relationships to Child Support Enforcement \$72,500

1201-0108 For the purposes of a federally funded grant entitled, Domestic Violence and Welfare \$34,078

1201-0109 For the purposes of a federally funded grant entitled, Access and Visitation \$171,787

EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.

Office of the Secretary.

2000-0140 For the purposes of a federally funded grant entitled, Ecosystem Protection Coastal Zone Management \$54,667

2000-0141 For the purposes of a federally funded grant entitled, Coastal Zone Management Development \$2,261,000

Chap. 194

2000-0148	For the purposes of a federally funded grant entitled, Massachusetts Bay National Estuary Project	\$33,161
2000-0157	For the purposes of a federally funded grant entitled, Pollution Prevention Incentives for States	\$7,869
2000-0159	For the purposes of a federally funded grant entitled, Pollution Prevention Incentives for Air Quality in Schools	\$3,383
2000-0161	For the purposes of a federally funded grant entitled, Thermo-trex Corporation High Temperature Materials Application.	\$225,000
2000-0162	For the purposes of a federally funded grant entitled, Pollution Prevention by Auto Body Shops	\$18,750
2000-0163	For the purposes of a federally funded grant entitled, Pollution Prevention Outreach for Dry Cleaners and Auto Body Shops	\$15,000
2000-0164	For the purposes of a federally funded grant entitled, Brittany Dyeing and Printing Corporation Energy Savings Textile Finishing Process	\$212,500
2000-0166	For the purposes of a federally funded grant entitled, Pollution Prevention Training for DPW Municipal Officials on Hazardous Waste	\$3,383
2000-0167	For the purposes of a federally funded grant entitled, Chemical Emergency Preparedness TAG	\$66,522
2000-9515	For the purposes of a federally funded grant entitled, Barlow's Landing Marsh Restoration	\$19,428
2000-9517	For the purposes of a federally funded grant entitled, Pollution Prevention Information Network	\$23,071
2000-9735	For the purposes of a federally funded grant entitled, Buzzards Bay Assistance Agreement	\$50,498
2000-9736	For the purposes of a federally funded grant entitled, Buzzards Bay Project Management Plan	\$273,589
2000-9737	For the purposes of a federally funded grant entitled, Buzzards Bay Project Wetlands Protection	\$51,466
2000-9738	For the purposes of a federally funded grant entitled, Buzzards Bay Project Environmental Technology Agreement	\$148,000
2000-9760	For the purposes of a federally funded grant entitled, Inventory of Navy Shipwrecks	\$3,884
2030-9701	For the purposes of a federally funded grant entitled, Outdoor Recreation Projects	\$699,186

Chap. 194

Department of Environmental Management.

2100-9720	For the purposes of a federally funded grant entitled, Connecticut River Valley & National Park Service	\$5,000
2120-9702	For the purposes of a federally funded grant entitled, USDA Forest Service, Rural Community Fire Protection	\$16,289
2121-9705	For the purposes of a federally funded grant entitled, USFS Shade Tree and Health	\$290,000
2121-9709	For the purposes of a federally funded grant entitled, Forestry Planning	\$101,000
2121-9711	For the purposes of a federally funded grant entitled, USFS Rural Fire Prevention	\$100,000
2121-9712	For the purposes of a federally funded grant entitled, Forest Health Research	\$18,000
2121-9714	For the purposes of a federally funded grant entitled, Resource Conservation and Development	\$5,000
2121-9718	For the purposes of a federally funded grant entitled, Forestry Incentives Program	\$2,500
2121-9719	For the purposes of a federally funded grant entitled, USFS Wood In Transportation Project	\$15,000
2120-9720	For the development of a federally funded grant entitled, USFS Rural Development Project	\$33,206
2121-9722	For the purposes of a federally funded grant entitled, USFS Forest Resource Management	\$32,000
2121-9726	For the purposes of a federally funded grant entitled, USFS Forest Health Management	\$21,000
2121-9728	For the purposes of a federally funded grant entitled, USFS Forest Health Monitoring	\$18,000
2121-9730	For the purposes of a federally funded grant entitled, USFS North American Maple Project	\$6,400
2130-9705	For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir	\$38,000
2140-9709	For the purposes of a federally funded grant entitled, WBNERR Operation and Management	\$193,000
2140-9710	For the purposes of a federally funded grant entitled, WBNERR exhibits and renovations	\$250,000
2140-9713	For the purposes of a federally funded grant entitled, WBNERR Radio Series Production	\$35,000

Chap. 194*Department of Environmental Protection.*

2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning	\$345,631
2200-9712	For the purposes of a federally funded grant entitled, Cooperative Agreement-Leaking Underground Storage Tank Program	\$1,097,883
2200-9717	For the purposes of a federally funded grant entitled, D.O.D. Environment Restoration Program	\$1,200,000
2200-9721	For the purposes of a federally funded grant entitled, Charles George Landfill - Operable Unit III Operations and Maintenance	\$10,670
2200-9724	For the purposes of a federally funded grant entitled, Superfund Block Fund Cooperative Agreement	\$1,141,035
2200-9726	For the purposes of a federally funded grant entitled, Cerclis Audit and Compliance Program	\$250,000
2230-9702	For the purposes of a federally funded grant entitled, Performance Partnership Grant	\$10,272,679
2230-9703	For the purposes of a federally funded grant entitled, Facilities One-Stop Reporting Discretionary Grant	\$207,389
2230-9704	For the purposes of a federally funded grant entitled, Clean Water Section 104	\$9,000
2240-9710	For the purposes of a federally funded grant entitled, Construction Grants Program - Administration	\$259,077
2240-9726	For the purposes of a federally funded grant entitled, New Point Source Pollution	\$125,000
2 240-9746	For the purposes of a federally funded grant entitled, BVW Delineation Training Video (104b-3)	\$17,000
2240-9747	For the purposes of a federally funded grant entitled, Small Docks and Piers (104b-3)	\$15,000
2240-9751	For the purposes of a federally funded grant entitled, State Underground Water Source Protection	\$45,141
2240-9752	For the purposes of a federally funded grant entitled, Clean Water Section 104 (G)	\$10,000
2240-9753	For the purposes of a federally funded grant entitled, Source Water/ Groundwater Protection Program	\$9,500
2250-9709	For the purposes of a federally funded grant entitled, Environmental Technology Initiative	\$40,000

Chap. 194

2250-9711 For the purposes of a federally funded grant entitled, Pay As
You Throw Outreach \$10,000

Department of Fisheries, Wildlife and Environmental Law Enforcement.

2300-0103 For the purposes of a federally funded grant entitled, EPA
Urban Rivers Action \$40,000

2300-9885 For the purposes of a federally funded grant entitled,
SUASCO Scenic River \$27,199

2300-9888 For the purposes of a federally funded grant entitled, Urban
Rivers Action Program \$25,000

2315-9709 For the purposes of a federally funded grant entitled,
Assessment and Protection of Endangered Reptiles and
Amphibians \$30,000

2315-9710 For the purposes of a federally funded grant entitled, Priority
Wetland and Riparian Habitats \$35,000

2330-9222 For the purpose of a federally funded grant entitled, Clean
Vessel Act, for Vessel Pumpout Equipment, Education,
Planning and Administration \$833,945

2330-9709 For the purposes of a federally funded grant entitled,
Commercial Fisheries Research \$50,000

2330-9712 For the purposes of a federally funded grant entitled,
Commercial Fisheries Statistics \$406,000

2330-9714 For the purposes of a federally funded grant entitled,
Commercial Fisheries Extension \$50,000

2330-9721 For the purposes of a federally funded grant entitled,
Anadromous Fisheries Management \$60,000

2340-9701 For the purposes of a federally funded grant entitled, Safe
Boating Program \$550,000

Department of Food and Agriculture.

2511-0310 For the purposes of a federally funded grant entitled, Pesticide
Enforcement \$262,662

2511-0320 For the purposes of a federally funded grant entitled,
Certification of Pesticide Applicators \$30,700

2511-0971 For the purposes of a federally funded grant entitled, Soil
Survey Digitizing \$13,573

2516-9002 For the purposes of a federally funded grant entitled,
Development of Institutional Marketing \$50,000

Chap. 194

2516-9003	For the purposes of a federally funded grant entitled, Farmers' Market Coupon	\$670,238
-----------	---	-----------

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES.*Office of the Secretary.*

4000-0705	For the purposes of a federally funded grant entitled, Emergency Shelter Grants Program	\$2,296,000
4000-0707	For the purposes of a federally funded grant entitled, Supportive Housing	\$6,133,194
4000-0708	For the purposes of a federally funded grant entitled, Head Start Demonstration	\$202,423
4000-0709	For the purposes of a federally funded grant entitled, Continuum of Care	\$4,619,059
4000-9401	For the purposes of a federally funded grant entitled, Community Mental Health Services	\$6,038,584
4000-9402	For the purposes of a federally funded grant entitled, Substance Abuse Prevention and Treatment Block Grant. . .	\$31,351,886
4000-9404	For the purposes of a federally funded grant entitled, the Shelter Plus Care Grant	\$2,000,000
4003-0804	For the purposes of a federally funded grant entitled, Refugee Targeted Assistance Grant	\$1,153,479
4003-0805	For the purposes of a federally funded grant entitled, Refugee Resettlement Program and Social Services	\$1,748,058
4003-0806	For the purposes of a federally funded grant entitled, Refugee Cash Assistance, Medical Assistance, and Administration. . .	\$9,803,423
4003-0807	For the purposes of a federally funded grant entitled, State Legalization Impact Assistance Grant	\$1,583,952

Division of Medical Assistance.

4000-0314	For the purposes of a federally funded grant entitled, Welfare Reform; provided, that only federal funds received from the allocation established by the Personal Responsibility and Work Opportunity Reconciliation Act may be credited to this item	\$4,300,000
-----------	---	-------------

Massachusetts Commission for the Blind.

4110-3020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation; provided, that any reimbursement received for successful vocational rehabilitation	
-----------	--	--

Chap. 194

closures under the federal Social Security Act's Vocational Rehabilitation Program may be used by the commission for the blind to provide for essential client programming, including but not limited to pre-vocational and supported employment services

		\$1,500,000
4110-3021	For the purposes of a federally funded grant entitled, Basic Support Grant - Section 110	\$7,350,000
4110-3023	For the purposes of a federally funded grant entitled, Independent Living - Part B	\$79,414
4110-3026	For the purposes of a federally funded grant entitled, Independent Living - Part C	\$225,000
4110-3027	For the purposes of a federally funded grant entitled, Rehabilitation Training	\$21,280
4110-3028	For the purposes of a federally funded grant entitled, Supported Employment	\$194,242

Massachusetts Rehabilitation Commission.

4120-0020	For the purposes of a federally funded grant entitled, Vocational Rehabilitation	\$38,500,000
4120-0173	For the purposes of a federally funded grant entitled, New England Psychiatric Rehab Training	\$200,000
4120-0174	For the purposes of a federally funded grant entitled, New England Psychiatric Rehab Training - Research	\$120,000
4120-0187	For the purposes of a federally funded grant entitled, Supported Employment Program	\$990,000
4120-0188	For the purposes of a federally funded grant entitled, Statewide Supported Employment Demonstration Project.	\$200,000
4120-0511	For the purposes of a federally funded grant entitled, Disability Determination Services	\$32,000,000
4120-0760	For the purposes of a federally funded grant entitled, Independent Living	\$1,650,000

Massachusetts Commission for the Deaf and Hard of Hearing.

4125-0103	For the purposes of a federally funded grant entitled Massachusetts Assistive Technology Partnership	\$675,557
-----------	--	-----------

Office of Child Care Services.

4130-2000	For the purposes of a federally funded grant entitled, Project Child care 2000	\$136,897
-----------	--	-----------

Chap. 194

- 4130-9002 For the purposes of a federally funded grant entitled, Child Abuse Prevention Activities \$399,000

Department of Transitional Assistance.

- 4400-3067 For the purpose of a federally fund grant entitled, Food Stamp Employment and Training \$2,259,000
- 4400-3069 For the purpose of a federally fund grant entitled, Food Stamp Cash-Out \$1,800,000
- 4400-9054 For the purpose of a federally fund grant entitled, Family Violence Prevention \$25,000

Department of Public Health.

- 4500-1000 For the purposes of a federally funded grant entitled, Preventive Health Services Block Grant; provided, that not less than \$450,000 shall be obligated to the emergency medical services regions; and provided further, that not less than \$585,000 be obligated for rape prevention and victim services \$5,529,452
- 4500-2000 For the purposes of a federally funded grant entitled, Maternal and Child Health Services Block Grant; provided that the department shall review and assess the process by which it allocates resources under the appropriation; provided further that the said process shall involve the use of a needs assessment that clearly considers the magnitude, severity, and degree of risk for identified health problems within individual communities; and provided further, that a specific focus will be taken to support programs serving communities and neighborhoods with high poverty rates . . . \$12,786,427
- 4502-1012 For the purposes of a federally funded grant entitled, Cooperative Health Statistics System \$439,700
- 4510-0109 For the purposes of a federally funded grant entitled, State Loan Repayment Project \$106,784
- 4510-0113 For the purposes of a federally funded grant entitled, Massachusetts Office of Rural Health \$50,000
- 4510-0118 For the purposes of a federally funded grant entitled, Primary Care Cooperative Agreement \$103,247
- 4510-0400 For the purposes of a federally funded grant entitled, Medicare and Medicaid Survey and Certification \$5,012,229
- 4510-0500 For the purposes of a federally funded grant entitled, Clinical Laboratory Improvement Amendments \$480,815

Chap. 194

4510-0619	For the purposes of a federally funded grant entitled, FDA Inspection of Food Establishments ⁸⁵	\$83,276
4510-0636	For the purposes of a federally funded grant entitled, Childhood Lead Paint Poisoning Prevention	\$1,392,009
4510-9014	For the purposes of a federally funded grant entitled, Mammography Quality Standards Act Inspections	\$225,927
4510-9019	For the purposes of a federally funded grant entitled, Environmental Monitoring Program	\$41,980
4510-9040	For the purposes of a federally funded grant entitled, Diabetes Control Program	\$269,731
4510-9043	For the purposes of a federally funded grant entitled, Demonstration Program to Conduct Toxic Waste Site Impact Health Assessments	\$519,814
4510-9048	For the purposes of a federally funded grant entitled, Indoor Radon Development Program	\$147,495
4512-0102	For the purposes of a federally funded grant entitled, Sexually Transmitted Disease Control	\$900,357
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$4,786,380
4512-0180	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$266,796
4512-9030	For the purposes of a federally funded grant entitled, Treatment Outcome Study	\$296,013
4512-9426	For the purposes of a federally funded grant entitled, Uniform Alcohol and Drug Abuse Data Collection	\$137,722
4512-9429	For the purpose of a federally funded grant entitled, HIV/STD/TB Risk Reduction	\$495,000
4513-0110	For the purpose of a federally funded grant entitled, Supportive Housing	\$715,825
4513-0111	For the purpose of a federally funded grant entitled, Housing Opportunities-People with AIDS	\$993,621
4513-9007	For the purposes of a federally funded grant entitled, Nutritional Status of Women, Infants and Children (WIC); provided, that the department shall report quarterly to the secretary of administration and finance, the joint committee on federal financial assistance, and the house and senate committees on ways and means on all expenditures from this item and the state nutrition program	

Chap. 194

	for women, infants and children, including the numbers of participants in each program	\$56,540,687
4513-9018	For the purposes of a federally funded grant entitled, Augmentation and Evaluation of Established Health Education/Risk Reduction Program	\$8,170,616
4513-9021	For the purposes of a federally funded grant entitled, Program for Infants and Toddlers with Handicaps	\$8,621,533
4513-9022	For the purposes of a federally funded grant entitled, Prevention Disability State Based Project	\$350,000
4513-9027	For the purposes of a federally funded grant entitled, Massachusetts Care - Community AIDS Resource Enhancement	\$683,889
4513-9030	For the purposes of a federally funded grant entitled, Planning a Comprehensive Primary Care System for All Massachusetts Children and Youth	\$160,000
4513-9031	For the purposes of a federally funded grant entitled, EMS for children	\$150,000
4513-9035	For the purposes of a federally funded grant entitled, AIDS Surveillance	\$649,113
4513-9037	For the purposes of a federally funded grant entitled, Ryan White Comprehensive AIDS Resources	\$9,780,533
4513-9038	For the purposes of a federally funded grant entitled, Shelter Plus Care - Worcester	\$159,000
4513-9041	For the purposes of a federally funded grant entitled, Managed Care Enhancement Project	\$46,829
4513-9045	For the purposes of a federally funded grant entitled, MA Women's HIV Advocacy Project	\$317,938
4513-9046	For the purposes of a federally funded grant entitled, Congenital Anomalies Center for excellence	\$950,000
4513-9047	For the purposes of a federally funded grant entitled, Firstlink Community Organization Project	\$50,000
4513-9048	For the purposes of a federally funded grant entitled, Mass. Initiative for the Youth with Disabilities	\$189,395
4513-9049	For the purposes of a federally funded grant entitled, Firstlink Data Utilization Enhancement	\$141,524
4513-9050	For the purposes of a federally funded grant entitled, MAXCARE: Maximizing Children's Health and Safety in Child Care	\$50,000

Chap. 194

4513-9051	For the purposes of a federally funded grant entitled, Rural Domestic Violence and Children Victimization Project	\$50,000
4513-9055	For the purposes of a federally funded grant entitled, Disabled Adults With Secondary Conditions	\$161,136
4513-9056	For the purposes of a federally funded grant entitled, Pregnancy/Pediatric Nutrition Surveillance	\$86,156
4513-9057	For the purposes of a federally funded grant entitled, Surveillance of Hemophilia Complications	\$172,769
4513-9058	For the purposes of a federally funded grant entitled, Women Abuse Tracking Clinics and Hospitals	\$274,375
4513-9059	For the purposes of a federally funded grant entitled, Congenital Anomalies Surveillance System	\$50,000
4513-9060	For the purposes of a federally funded grant entitled, Residential Fire Injury Prevention Mass Injury Intervention and Surveillance	\$184,688
4513-9061	For the purposes of a federally funded grant entitled, Abstinence Education Project	\$739,012
4513-9070	For the purposes of a federally funded grant entitled, HIV Prevention Evaluation	\$99,837
4513-9101	For the purposes of a federally funded grant entitled, WIC and Immunization System Linkage Project	\$88,050
4515-0113	For the purposes of a federally funded grant entitled, Health Program for Refugees	\$164,710
4515-0115	For the purposes of a federally funded grant entitled, Tuberculosis Control Project	\$2,485,115
4515-0200	For the purposes of a federally funded grant entitled, STD/HIV Prevention Training Centers ⁸⁵	\$370,062
4515-0201	For the purposes of a federally funded grant entitled, STD Prevention/Managed Care Settings	\$166,025
4516-1015	For the purposes of a federally funded grant entitled, Training Network Grant	\$10,000
4516-1018	For the purposes of a federally funded grant entitled, Lyme disease Research and Education	\$166,567
4518-0136	For the purposes of a federally funded grant entitled, State Injury Intervention and Surveillance	\$258,517
4518-0500	For the purposes of a federally funded grant entitled, National Program of Cancer Registries	\$535,156

Chap. 194

4518-0510	For the purposes of a federally funded grant entitled, Behavioral Risk Factor Surveillance	\$90,313
4518-0515	For the purposes of a federally funded grant entitled, Youth Worker Health and Safety Enhancement	\$131,723
4518-0530	For the purposes of a federally funded grant entitled, State Assessment Initiatives Support by Cooperative Agreements	\$219,024
4518-1000	For the purposes of a federally funded grant entitled, Procurement of Information for the National Death Index (NDI)	\$29,176
4518-1002	For the purposes of a federally funded grant entitled, Social Security Administration - Massachusetts Death File	\$133,776
4518-1003	For the purposes of a federally funded grant entitled, Massachusetts Birth Records for Social Security Administration.	\$183,303
4518-9022	For the purposes of a federally funded grant entitled, Sentinel Event Notification System for Occupational Risks	\$203,686
4518-9023	For the purposes of a federally funded grant entitled, Census of Fatal Occupational Injuries	\$27,000
4518-9025	For the purposes of a federally funded grant entitled, Fatality Surveillance and Field Investigations at the State Level	\$95,000
4540-8200	For the purposes of a federally funded grant entitled, Transitional Housing/Shattuck Shelter	\$122,000
4570-1503	For the purposes of a federal grant entitled, Comprehensive Breast and Cervical Early Detection Program	\$4,365,056
4570-1504	For the purposes of a federal grant entitled, Prostate Cancer Early Detection Demonstration Project	\$20,290
4570-1505	For the purposes of a federal grant entitled, Skin Cancer Primary Prevention and Education	\$25,306
4570-1600	For the purposes of a federal grant entitled, Newcomer Women's Health Planning	\$2,500
4590-0302	For the purposes of a federal grant entitled, American Stop Smoking Intervention	\$2,133,855
4590-0303	For the purposes of a federal grant entitled, Tobacco Sales Retail Compliance	\$324,314

Department of Social Services.

4800-0005	For the purposes of a federally funded grant entitled, Children's Justice Act	\$239,722
-----------	---	-----------

Chap. 194

4800-0007	For the purposes of a federally funded grant entitled, The Family Violence Prevention Act	\$1,400,280
4800-0009	For the purposes of a federally funded grant entitled, Title IV-E Independent Living	\$667,803
4800-0013	For the purposes of a federally funded grant entitled, Family Preservation and Support	\$3,915,172
4899-0001	For the purposes of a federally funded grant entitled, Title IV-B Child Welfare Services	\$4,632,153
4899-0022	For the purposes of a federally funded grant entitled, Child Abuse and Neglect Prevention and Treatment - Basic Grant.	\$522,785

Department of Mental Health.

5012-9105	For the purpose of a federally funded grant entitled, Exemplary Practice Grant	\$80,000
5012-9106	For the purposes of a federally funded grant entitled, Information Warehouse	\$56,000
5012-9121	For the purposes of a federally funded grant entitled, Project for Assistance in Transition from Homelessness	\$442,000
5021-9106	For the purposes of a federally funded grant entitled, Mental Health Systems Improvement Demonstration Grant	\$50,000
5046-9102	For the purposes of a federally funded grant entitled, Shelter Plus Care	\$144,240

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION.*Office of the Secretary.*

6000-0018	For the purposes of a federally funded grant entitled, Rural Public Transportation Assistance	\$1,961,151
6000-0019	For the purpose of a federally funded grant entitled, Section 5307 Transportation Demand Management	\$1,440,000
6000-0023	For the purposes of a federally funded grant entitled, Rural Public Transportation Planning Grant	\$1,357,825
6000-0024	For the purposes of a federally funded grant entitled, Disadvantaged Business Enterprise Disparity Study	\$150,000
6000-0049	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation Capital Grant	\$1,494,391
6000-0054	For the purposes of a federally funded grant entitled, Rail Planning Assistance	\$560,000

Chap. 194

Massachusetts Aeronautics Commission.

6006-0042	For the purposes of a federally funded grant entitled, Airport System Planning	\$400,000
-----------	--	-----------

BOARD OF LIBRARY COMMISSIONERS.

7000-9700	For the purposes of a federally funded grant entitled, Unrestricted Funds-Title I	\$172,904
7000-9702	For the purposes of a federally funded grant entitled, Library Service Technical Act Funds	\$2,970,206
7000-9707	For the purposes of a federally funded grant entitled, Title II LSCA Emergency Federal Jobs Bill	\$308,564

Department of Labor and Workforce Development.

7002-6628	For the purposes of a federally funded grant entitled, Federal Disabled Veterans Outreach	\$2,006,739
7002-6629	For the purposes of a federally funded grant entitled, Local Veterans Employment Representative Program	\$1,461,008
7003-1010	For the purposes of a federally funded grant entitled, Trade Expansion Act Program	\$4,000,000
7003-1621	For the purposes of federally funded grant entitled, Job Training Act Title II	\$31,495,634
7003-1623	For the purpose of a federally Funded Grants entitled Job Training Partnership III	\$14,048,429
7003-1624	For the purpose of a federally funded grant entitled , Title V Veterans	\$852,940
7003-1627	For the purpose of federally funded grant entitled welfare to work	\$20,000,000
7003-6630	For the purposes of a federally funded grant entitled, Massachusetts Occupational Information Coordinating Committee	\$164,838
7003-9006	For the purposes of a federally funded grant entitled, One-Stop Career Centers; and provided further, that on or before December 1, 1998, the joint committee on commerce and labor and the house and senate committees on ways and means shall be provided with a detailed accounting of the amounts previously received pursuant to said grant and the specific purposes for which and by whom such monies have been used	\$2,100,000

Chap. 194

7002-4203	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Statistics Program	\$105,241
7002-4204	For the purposes of a federally funded grant entitled, Adult Blood Lead Levels Surveillance	\$25,547
7002-4212	For the purposes of a federally funded grant entitled, Asbestos Licensing and Monitoring	\$132,171
7002-4213	For the purposes of a federally funded grant entitled, Lead Licensing and Monitoring	\$366,238
7002-4215	For the purposes of a federally funded grant entitled, Occupational Illness and Injury	\$98,914
7002-6627	For the purposes of a federally funded grant entitled, Occupational Safety and Health Administration Onsite Consultation Program	\$965,695
7003-1622	For the purpose of a federally funded grant entitled, Lead Enforcement	\$90,109
7003-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training	\$30,224

Division of Employment and Training.

7002-6624	For the purposes of a federally funded grant entitled, Unemployment Insurance Programs Administration	\$66,809,399
7002-6626	For the purposes of a federally funded grant entitled, Employment Service Programs Administration	\$16,198,200

Division of Labor Market Information.

7002-9701	For the purposes of a federally funded grant entitled, Bureau of Labor Statistic Administration	\$1,904,122
-----------	---	-------------

Department of Housing and Community Development.

7004-0301	For the purposes of a federally funded grant entitled, Lead Paint Abatement	\$1,181,477
7004-2030	For the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$4,500,000
7004-2033	For the purposes of a federally funded grant entitled, Low	

Chap. 194

	Income Home Energy Assistance Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development shall provide monthly payments in advance to participating agencies	\$50,000,000
7004-2034	For the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$13,000,000
7004-3037	For the purposes of a federally funded grant entitled, Small Cities Community Development Block Grant Program; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$45,543,091
7004-9009	For the purposes of a federally funded grant entitled, Section 8 Substantial Rehabilitation Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$5,365,032
7004-9011	For the purposes of a federally funded grant entitled, Supportive Housing Demonstration Program	\$1,460,804
7004-9013	For the purposes of a federally funded grant entitled, Section 8 Existing Housing Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$75,276,286
7004-9014	For the purposes of a federally funded grant entitled, Section 8 Federal Housing Voucher Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$25,413,539
7004-9019	For the purposes of a federally funded grant entitled, Section 8 Moderate Rehabilitation; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$16,053,947
7004-9020	For the purposes of a federally funded grant entitled, Section 8	

Chap. 194

	New Construction Program; provided, that the department of housing and community development may provide monthly payments in advance to participating agencies	\$3,978,317
7004-9028	For the purposes of a federally funded grant entitled, HOME; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$6,784,112
7004-9051	For the purposes of a federally funded grant entitled, Shelter Plus Care-Lowell; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$45,000
7004-9052	For the purposes of a federally funded grant entitled, Shelter Plus Care-Boston; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$995,999
7004-9053	For the purposes of a federally funded grant entitled, Shelter Plus Care-Southbridge; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$165,000
7004-9054	For the purposes of a federally funded grant entitled, Shelter Plus Care-New Bedford; provided, that consistent with applicable federal regulations and the state plan, the department of housing and community development may provide monthly payments in advance to participating agencies	\$50,000

Division of Energy Resources.

7006-9720	For the purposes of a federally funded grant entitled, State Heating Oil and Propane Program	\$22,725
7006-9743	For the purposes of a federally funded grant entitled, State Energy Plan	\$727,300
7006-9757	For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program	\$30,000

Department of Economic Development.

7007-0002	For the purposes of a federally funded grant entitled, Massachusetts Fisheries Initiative	\$300,000
-----------	---	-----------

Chap. 194

7007-0211	For the purposes of a federally funded grant entitled, Massachusetts Modernization Partnership	\$2,356,000
7007-7000	For the purposes of a federally funded grant entitled, Planning Assistance - Department of Commerce Development	\$18,896
7007-9007	For the purposes of a federally funded grant entitled, Urban Enterprise Program	\$3,693,449
<i>Department of Education.</i>		
7010-2000	For the purposes of a federally funded grant entitled, Goals 2000 - Distribution	\$5,848,200
7010-2001	For the purposes of a federally funded grant entitled, Goals 2000 -Administration	\$600,000
7010-6610	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development - Administration	\$146,000
7010-6611	For the purposes of a federally funded grant entitled, Initial Teacher Professional Development- Distribution	\$190,000
7010-8801	For the purposes of a federally funded grant entitled, Initial Technology Literacy - Distribution	\$3,500,000
7010-8802	For the purposes of a federally funded grant entitled, Technology Literacy - Administration	\$200,000
7010-9095	For the purposes of a federally funded grant entitled, Mass Parents Involvement- Administration	\$276,000
7010-9096	For the purposes of a federally funded grant entitled, Mass Parents Involvement- Distribution	\$105,000
7010-9097	For the purposes of a federally funded grant entitled, Mass Parents Involvement- Palms Phase II- Administration	\$50,000
7010-9098	For the purposes of a federally funded grant entitled, Mass Parents Involvement- Palms Phase II- Distribution	\$1,350,000
7010-9103	For the purposes of a federally funded grant entitled, Math and Science Curriculum Frameworks	\$100,000
7010-9706	For the purposes of a federally funded grant entitled, Common Core Data Project	\$13,100
7027-9113	For the purposes of a federally funded grant entitled, Occupational Education- Technical Preparation	\$70,000
7027-9116	For the purposes of a federally funded grant entitled, Occupational Education - Distribution	\$17,000,000
7027-9123	For the purposes of a federally funded grant entitled, Technical Preparation	\$2,000,000

Chap. 194

7027-9126	For the purposes of a federally funded grant entitled, Occupational Education-Administration	\$1,850,000
7027-9732	For the purposes of a federally funded grant entitled, Title VI- I.E.P.S. - Administration	\$900,000
7028-0601	For the purposes of a federally funded grant entitled, Education of Handicapped - Administration	\$2,452,831
7028-9125	For the purposes of a federally funded grant entitled, Transition Services for Youth with Disabilities - Administration	\$200,000
7028-9500	For the purposes of a federally funded grant entitled, Special Education for Culturally and Linguistically Diverse Exceptional Students	\$188,700
7030-0191	For the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs by S.E.A.S	\$95,895
7030-9736	For the purposes of a federally funded grant entitled, Title VI - I.E.P.S - Distribution	\$6,000,000
7030-9780	For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Administration	\$200,000
7030-9790	For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Math and Science Education Program - Distribution	\$3,500,000
7032-0217	For the purposes of a federally funded grant entitled, Robert C. Byrd Honors Scholarship Program - Distribution	\$576,194
7032-0227	For the purposes of a federally funded grant entitled, Drug Free Schools - Administration	\$537,419
7032-0228	For the purposes of a federally funded grant entitled, Massachusetts AIDS Education Program	\$650,000
7032-0230	For the purposes of a federal grant entitled, Drug Free Schools - Distribution	\$6,219,000
7032-0402	For the purposes of a federally funded grant entitled, Local Education Agencies Education of Children of Low Income Families - Administration	\$980,000
7032-0403	For the purposes of a federally funded grant entitled, Chapter I - Technical Assistance	\$700,000
7033-9401	For the purposes of a federally funded grant entitled, Christa McAuliffe - Administration	\$4,000

Chap. 194

7033-9402	For the purposes of a federally funded grant entitled, Christa McAuliffe - Distribution	\$40,000
7035-0013	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution	\$3,692,129
7035-0116	For the purposes of a federally funded grant entitled, Chapter I, Education Consolidation and Improvement Act - Distribution	\$127,240,560
7035-0126	For the purposes of a federally funded grant entitled, Neglected and Delinquent Children	\$90,969
7035-0136	For the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions	\$12,000
7035-0146	For the purposes of a federally funded grant entitled, Migrant Education	\$2,000,000
7035-0151	For the purposes of a federally funded grant entitled, Homeless Children Youth Exemplary Grant	\$408,600
7035-0156	For the purposes of a federal grant entitled, Chapter I Capital Expenses for Private Schools	\$1,454,000
7035-0157	For the purposes of a federal grant entitled, Chapter I Program Improvement	\$188,000
7035-0158	For the purposes of a federally funded grant entitled, Massachusetts Educational Program for Homeless Children	\$73,695
7035-0166	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Distribution	\$1,450,000
7035-0167	For the purposes of a federally funded grant entitled, Even Start Family Literacy - Administration	\$85,859
7035-0316	For the purposes of a federally funded grant entitled, Education of the Handicapped - Distribution	\$64,400,000
7035-0713	For the purposes of a federally funded grant entitled, Early Childhood Incentive - Administration	\$640,000
7035-0716	For the purposes of a federally funded grant entitled, Preschool Incentive - Distribution	\$7,535,000
7035-0718	For the purposes of a federally funded grant entitled, Preschool Incentive - Discretionary	\$1,191,406
7038-0002	For the purposes of a federally funded grant entitled, Adult Basic Education - Administration	\$774,563
7038-0106	For the purposes of a federally funded grant entitled, Adult Basic Education - Distribution	\$3,500,000

Chap. 194

7038-0150	For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Administration	\$252,000
7038-0151	For the purposes of a federally funded grant entitled, National Workplace Literacy Program - Distribution	\$800,000
7038-0160	For the purposes of a federally funded grant entitled, Even Start Statewide Family Literacy	\$8,000
7038-0192	For the purposes of a federally funded grant entitled, Adult Learning Disabilities - Administration	\$75,000
7038-9002	For the purposes of a federally funded grant entitled, National & Community Services - Administration	\$200,000
7038-9003	For the purposes of a federally funded grant entitled, CNCS School Based - Administration	\$15,000
7038-9004	For the purposes of a federally funded grant entitled, Massachusetts Plan for Community Service - Distribution.	\$450,000
7038-9005	For the purposes of a federally funded grant entitled, Learn and Serve America - School Based Training	\$60,000
7038-9203	For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Administration	\$28,600
7038-9204	For the purposes of a federally funded grant entitled, CNCS American Conservation and Youth Service Corps - Distribution	\$6,050,000
7038-9404	For the purposes of a federally funded grant entitled, Learn and Serve America Community Based Training - Administration	\$161,000
7038-9724	For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Administration	\$20,000
7038-9746	For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance - Distribution.	\$1,000,860
7053-2105	For the purposes of a federally funded grant entitled, Special Food Distribution Cash	\$604,000
7053-2111	For the purposes of a federally funded grant entitled, Special Milk Program	\$586,000
7053-2112	For the purposes of a federally funded grant entitled, School Lunch, Section 11 - Special Assistance	\$56,494,000
7053-2113	For the purposes of a federally funded grant entitled, Community School Lunch Program	\$13,860,000

Chap. 194

7053-2114	For the purposes of a federally funded grant entitled, School Breakfast Program	\$15,990,000
7053-2117	For the purposes of a federally funded grant entitled, Child Care Food Program	\$37,600,000
7053-2118	For the purposes of a federally funded grant entitled, School Food Service-Management and Related Activities	\$86,100
7053-2126	For the purposes of a federally funded grant entitled, Temporary Emergency Food Assistance	\$904,000
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Service Program for Children	\$3,305,400
7062-0008	For the purposes of a federally funded grant entitled, Nutrition Program - Administration	\$2,348,670
7062-0016	For the purposes of a federally funded grant entitled, Charter Schools - Administrative	\$100,000
7062-0017	For the purposes of a federally funded grant entitled, Charter Schools- Distribution	\$1,000,000
7062-0018	For the purposes of a federally funded grant entitled, Cooperative Demonstration (School to Work)	\$4,000,000

Board of Higher Education.

7066-6092	For the purposes of a federally funded grant entitled, Dwight D. Eisenhower Mathematics and Science Education Act	\$1,600,000
7114-9714	For the purposes of a federally funded grant entitled, Special Programs for Disadvantaged Students-Salem State College.	\$22,935
7115-0001	For the purposes of a federally funded grant entitled, Student Support Grants- Westfield State College	\$62,496
7503-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-Bristol Community College	\$292,940
7503-9714	For the purposes of a federally funded grant entitled, Upward Bound Program-Bristol Community College	\$277,000
7508-9750	For the purposes of a federally funded grant entitled, International Studies and Foreign Language Program-Massasoit Community College	\$3,241
7509-9714	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-Mount Wachusett Community College	\$249,370

Chap. 194

7509-9718	For the purposes of a federally funded grant entitled, Talent Search - Mount Wachusett Community College	\$217,121
7510-9731	For the purposes of a federally funded grant entitled, Special Services-Northern Essex Community College	\$234,000
7510-9732	For the purposes of a federally funded grant entitled, Improvement of Post Secondary Education	\$81,900
7511-9711	For the purposes of a federally funded grant entitled, Special Services for Disadvantaged Students-North Shore Community College	\$341,111
7511-9713	For the purposes of a federally funded grant entitled, IAP Strengthening Institutions Program-North Shore Community College	\$348,364
7511-9740	For the purposes of a federally funded grant entitled, Upward Bound-North Shore Community College	\$307,131
7518-9748	For the purposes of a federally funded grant entitled, Student Support Services - Bunker Hill Community College	\$187,389

EXECUTIVE OFFICE OF PUBLIC SAFETY.*State Police.*

8100-0058	For the purposes of a federally funded grant entitled, Cops Ahead Community Policing	\$125,000
8100-0059	For the purposes of a federally funded grant entitled, Cops More	\$50,000
8100-2058	For the purposes of a federally funded grant entitled, N.E.S.P.A.C. - Regional Investigation	\$1,520,249
8100-9706	For the purposes of a federally funded grant entitled, Cannabis Eradicate/Controlled Substance Prosecution DEA Agreement 21	\$80,000
8100-9707	For the purposes of a federally funded grant entitled, Community Policing to Combat Domestic Violence	\$40,000
8100-9709	For the purposes of a federally funded grant entitled, Drug Fire Program	\$44,250
8100-9710	For the purposes of a federally funded grant entitled, State Police - Boston Police Forensic DNA Lab Improvements.	\$50,000

Department of Fire Services.

8324-9707	For the purposes of a federally funded grant entitled, Underground Storage Tank Registry Program	\$200,000
-----------	--	-----------

Chap. 194*Registry of Motor Vehicles.*

8400-0095	For the purposes of a federally funded grant entitled, Interstate 95 Corridor Grant	\$508,840
-----------	--	-----------

Committee on Criminal Justice.

8600-0002	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act Planning	\$63,915
8600-0003	For the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act	\$968,200
8600-0008	For the purposes of a federally funded grant entitled, Drug-Free Schools and Communities Act of 1986	\$1,937,188
8600-0009	For the purposes of a federally funded grant entitled, Narcotics Control Assistance	\$10,193,292
8600-0010	For the purpose of a federally funded grant entitled, Statistical Analysis Center	\$51,469
8600-0015	For the purposes of a federally funded grant entitled, Weed and Seed for Chelsea	\$180,250
8600-0019	For the purposes of a federally funded grant entitled, Title V Delinquency Prevention	\$375,950
8600-0020	For the purposes of a federally funded grant entitled, Stop Violence Against Women Formula Grants Program	\$2,977,730
8600-0021	For the purposes of a federally funded grant entitled, Challenge Grants Program	\$196,730
8600-0023	For the purposes of a federally funded grant entitled, National Criminal History Improvement Program	\$3,222,008
8600-0024	For the purposes of a federally funded grant entitled, State Prisoner Residential Substance Abuse	\$695,216
8600-0025	For the purposes of a federally funded grant entitled, Local Law Enforcement Block Grant	\$602,045
8600-0026	For the purposes of a federally funded grant entitled, Violent Offender Incarceration and Truth in Sentencing Incentive Grant	\$10,240,573
8600-0027	For the purposes of a federally funded grant entitled, Innovative Local Law Enforcement Block Grant	\$347,110

Massachusetts Emergency Management Agency.

8800-0003	For the purposes of a federally funded grant entitled, Emer- gency Management Assistance - Personnel and Adminis-	
-----------	--	--

Chap. 194

	trative Expenses	\$943,518
8800-0004	For the purposes of a federally funded grant entitled, Emergency Management Assistance - Distribution to Cities and Towns	\$706,797
8800-0005	For the purposes of a federally funded grant entitled, Disaster Preparedness Assistance	\$49,604
8800-0006	For the purposes of a federally funded grant entitled, Radiological Systems Maintenance	\$210,810
8800-0007	For the purposes of a federally funded grant entitled, Radiological Defense Officer	\$58,418
8800-0008	For the purposes of a federally funded grant entitled, Population Protection Planning Program	\$251,495
8800-0009	For the purposes of a federally funded grant, entitled, Emergency Management Training - State/Local Personnel.	\$133,543
8800-0010	For the purposes of a federally funded grant entitled, Earthquake Loss Study	\$88,600
8800-0019	For the purposes of a federally funded grant entitled, Superfund Amendment and Reauthorization Acts of 1986.	\$69,000
8800-0026	For the purposes of a federally funded grant entitled, Coastal Storm - Public Assistance Major Coastal Storm 10/30/91-11/02/91	\$177,000
8800-0037	For the purpose of a federally funded grant entitled, 404 Hazard Mitigation 914	\$3,358,000
8800-0040	For the purposes of a federally funded grant entitled, Winter Coastal Storm 12/11/92-12/13/92 Public Assistance	\$2,282,000
8800-0042	For the purposes of a federally funded grant entitled, Hazardous Materials Transportation Act	\$110,000
8800-0045	For the purposes of a federally funded grant entitled, Terrorism Consequences and Terrorism Related Planning.	\$51,198
8800-0046	For the purposes of a federally funded grant entitled, Mitigation Assistance Program	\$255,370
8800-0048	For the purposes of a federally funded grant entitled, Flood Mitigation	\$165,680
8800-0054	For the purposes of a federally funded grant entitled, Flood Disaster of 10/26/96	\$5,000,000
8800-0055	For the purposes of a federally funded grant entitled, HUD-Disaster Relief	\$4,297,444
8800-0057	For the purposes of a federally funded grant entitled, Arson	

Chap. 194

	Prevention Initiative	\$12,000
8800-0058	For the purposes of a federally funded grant entitled, Anti-Terrorism Training	\$50,000

Governor's Highway Safety Board.

8850-0004	For the purposes of a federally funded grant entitled, State Agency Programs	\$3,400,000
-----------	--	-------------

SHERIFFS.

Franklin Sheriff's Department.

8910-0901	For the purpose of a federally funded grant entitled, Triad COPS	\$75,000
8910-0902	For the purpose of a federally funded grant entitled, Assault Research COPS	\$101,606

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9110-1074	For the purposes of a federally funded grant entitled, Older Americans Assistance, Title III and Title VII; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$9,923,818
9110-1095	For the purposes of a federally funded grant entitled, Health Information Counseling and Assistance; provided that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$350,000
9110-1173	For the purposes of a federally funded grant entitled, Older Americans Act - Title III Nutrition Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$13,350,000
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$1,950,000
9110-1181	For the purposes of a federally funded grant entitled, Cash in Lieu of Commodities Program; provided, that the executive office of elder affairs may provide periodic payments in advance to participating agencies	\$3,850,000
9110-2106	For the purpose of a federally funded grant entitled, Anti-Fraud project of Mass Health Insurance Information, Counseling and Assistance	\$50,000

Local Aid

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 of the General Laws, for the fiscal year ending June 30, 1999, the distribution to cities and towns of the balance of the State Lottery Fund, as paid by the treasurer from the Local Aid Fund in accordance with the provisions of clause (c) of the second paragraph of section 35 of chapter 10 of the General Laws, shall be \$597,453,642 and shall be apportioned to the cities and towns in accordance with this section; provided, that the amount of any balance in the State Lottery Fund at the end of the fiscal year shall be transferred to the Local Aid Fund; provided, further, that the total amount of lottery distribution in fiscal year 1998 shall be considered "general revenue sharing aid received in the prior fiscal year" for purposes of calculating the municipal revenue growth factor pursuant to the provisions of chapter 70 of the General Laws; provided further, that the entire amount of the distribution made by this section shall be exempt from the provisions of section 5 of said chapter 70.

Notwithstanding the provisions of any general or special law to the contrary, except for section 12B of chapter 76 of the General Laws and section 89 of chapter 71 of the General Laws, the total amounts to be distributed and paid to each city, town, regional school district and county maintaining an agricultural school from items 0611-5500 and 7061-0008 of section 2 shall be as set forth in the following lists; provided, that the specified amounts to be distributed from item 7061-0008 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under the provisions of sections 3, 6 and 7 of chapter 70 of the General Laws; provided further, that the amounts to be distributed from item 0611-5500 of said section 2 are hereby deemed to be in full satisfaction of the amounts due under section 37 of chapter 21 of the General Laws. No payments to cities, towns, or counties maintaining an agricultural school pursuant to this section shall be made after November 30 of the fiscal year by the state treasurer until he receives certification from the commissioner of revenue of said commissioner's acceptance of the prior fiscal year's annual financial reports submitted pursuant to the provisions of section 43 of chapter 44 of the General Laws.

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Abington	5,422,022		1,606,938
Action	1,533,103	37,368	1,099,999
Acushnet	4,231,990	30,043	1,230,227
Adams		44,096	1,627,785
Agawam	10,049,037		2,935,548
Alford			12,434
Amesbury	8,389,816		1,617,821
Amherst	5,234,242	280,503	6,232,479
Andover	3,788,917		1,426,919
Arlington	4,220,448	5,652,310	3,603,324
Ashburnham			518,825
Ashby			310,987
Ashfield	97,877		126,783
Ashland	1,622,183	366,937	785,726
Athol		5,507	1,688,934
Attleboro	20,477,942		4,344,086
Auburn	3,293,295		1,322,033
Avon	452,140	504,148	329,682
Ayer	3,940,098	55,642	614,746
Barnstable	4,034,668		1,514,592
Barre	7,626		603,815
Becket	19,991	10,797	61,074
Bedford	1,388,955	609,391	619,576
Belchertown	6,572,896		1,172,347
Bellingham	6,559,108		1,537,983
Belmont	2,194,694	1,041,278	1,443,242
Berkley	3,477,608		413,580
Berlin	346,954		185,515
Bernardston			198,295
Beverly	5,571,302	3,086,077	3,204,539
Billerica	11,953,374	2,956,313	3,271,089
Blackstone	55,397		1,024,718
Blandford			93,142
Bolton			147,384
Boston	176,446,515	206,638,214	50,455,659

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Bourne	2,605,266	443,645	892,053
Boxborough	301,286		186,514
Boxford	543,877	45,818	332,169
Boylston	286,586		274,193
Braintree	3,502,119	4,250,822	2,583,806
Brewster	444,101		279,912
Bridgewater	55,582		2,439,466
Brimfield	888,869		278,817
Brockton	83,922,521	5,424,063	13,736,192
Brookfield	1,344,301		380,002
Brookline	3,673,938	4,401,448	3,204,988
Buckland			213,232
Burlington	2,869,108	1,744,603	1,238,335
Cambridge	5,491,819	22,595,349	6,551,318
Canton	1,926,249	1,104,851	1,129,448
Carlisle	415,456	18,534	168,494
Carver	7,847,997		1,085,935
Charlemont	56,674		121,524
Charlton			984,696
Chatham	304,480		130,698
Chelmsford	5,341,877	3,190,395	2,493,224
Chelsea	32,291,673	4,274,507	4,211,615
Cheshire	107,929		413,370
Chester			127,529
Chesterfield	54,701		94,076
Chicopee	31,279,111	1,504,526	7,692,228
Chilmark			2,962
Clarksburg	1,076,476	16,502	292,036
Clinton	7,900,531	220,865	1,712,570
Cohasset	921,759	209,013	346,166
Colrain			169,929
Concord	1,154,598	483,163	763,836
Conway	483,674		127,775
Cummington	28,158		56,271

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Dalton	277,790		778,047
Danvers	2,497,191	1,408,080	1,582,452
Dartmouth	5,720,348		1,997,834
Dedham	2,410,146	1,950,847	1,780,162
Deerfield	604,419		382,924
Dennis			406,622
Dighton			547,125
Douglas	4,040,457		506,319
Dover	212,264		165,670
Dracut	11,383,377		2,681,216
Dudley			1,166,290
Dunstable		37,846	143,839
Duxbury	2,054,272		740,847
East Bridgewater	7,723,120		1,144,846
East Brookfield	10,685		224,115
East Longmeadow	2,750,419		1,057,629
Eastham	175,080		107,656
Easthampton	6,720,608	137,004	2,126,757
Easton	5,408,450		1,697,866
Edgartown	231,673	35,873	34,610
Egremont			54,200
Erving	207,263	16,548	48,192
Essex	604,129	42,569	186,587
Everett	11,888,058	5,139,628	2,708,434
Fairhaven	5,995,363	492,569	1,622,177
Fall River	73,929,670	2,882,862	18,191,709
Falmouth	3,323,992		1,041,572
Fitchburg	28,432,948	270,312	6,333,005
Florida	469,975		39,712
Foxborough	5,233,794		1,251,052
Framingham	5,645,028	5,911,189	4,983,227
Franklin	13,292,419		1,936,628
Freetown	789,226		744,351
Gardner	13,234,334	151,944	3,039,507

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Gay Head			1,756
Georgetown	2,107,583	66,691	545,417
Gill			163,843
Gloucester	4,728,100	2,419,911	2,048,937
Goshen	2,550		53,300
Gosnold	1,875	2,469	400
Grafton	3,965,879		1,224,996
Granby	2,346,412		662,926
Granville	559,487		108,747
Great Barrington			632,294
Greenfield	8,377,816		2,416,737
Groton			563,891
Groveland			537,293
Hadley	432,813	174,084	254,034
Halifax	2,043,044		726,241
Hamilton		53,967	496,629
Hampden			477,053
Hancock	55,415	22,195	33,588
Hanover	2,858,623	1,669,092	851,947
Hanson			1,009,281
Hardwick	132,016	4,062	306,146
Harvard	931,093	69,324	1,552,083
Harwich	1,018,110		323,924
Hatfield	494,984		256,229
Haverhill	29,866,084	3,149,881	6,052,164
Hawley	12,853	16,264	21,229
Heath			45,131
Hingham	2,637,247	420,485	1,135,043
Hinsdale	34,172		163,007
Holbrook	3,905,484	5,987	1,242,508
Holden	24,864		1,306,845
Holland	626,030		134,741
Holliston	4,746,949	518,826	999,138
Holyoke	56,463,750	763,384	7,514,082

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Hopedale	3,010,045		495,237
Hopkinton	1,713,846	151,365	500,820
Hubbardston			235,298
Hudson	5,069,659		1,680,012
Hull	3,858,461	1,747,307	884,535
Huntington			240,213
Ipswich	1,454,909	975,780	833,725
Kingston	2,122,487		710,067
Lakeville	1,582,244		594,063
Lancaster			715,848
Lanesborough	467,631		302,496
Lawrence	87,543,238	239,970	13,767,584
Lee	1,365,178		561,022
Leicester	6,597,974		1,365,896
Lenox	1,033,192	90,787	476,408
Leominster	24,129,589	14,714	4,176,359
Leverett	182,213		135,043
Lexington	3,685,356		1,305,480
Leyden			52,527
Lincoln	316,680	367,459	392,117
Littleton	901,102	207,535	449,607
Longmeadow	2,828,988		1,105,106
Lowell	89,392,188	7,978,998	14,692,086
Ludlow	8,127,820		2,222,343
Lunenburg	2,646,045		857,819
Lynn	74,343,531	11,926,220	11,075,751
Lynnfield	1,345,900	455,892	620,014
Malden	16,925,261	7,030,168	6,773,321
Manchester	551,298		205,285
Mansfield	5,882,551	912,368	1,129,538
Marblehead	1,813,694	49,583	947,150
Marion	218,430		170,551
Marlborough	3,620,042	3,433,241	2,559,914
Marshfield	9,813,881	255,142	1,678,748

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Mashpee	1,862,999		185,275
Mattapoisett	335,818		335,326
Maynard	1,865,425	738,519	912,472
Medfield	1,560,099	937,000	710,080
Medford	10,537,816	8,094,393	5,950,012
Medway	4,292,860	235,317	793,029
Melrose	4,666,893	3,402,865	2,600,966
Mendon			293,316
Merrimac			599,635
Methuen	18,335,886	205,147	4,059,305
Middleborough	12,060,893		1,929,302
Middlefield			33,650
Middleton	417,509	159,272	275,122
Milford	9,615,981		2,513,775
Millbury	4,387,967		1,404,818
Millis	1,537,224	403,862	632,467
Millville	16,405		269,240
Milton	2,347,289	1,566,851	1,919,385
Monroe	27,375	17,526	6,460
Monson	4,718,986		1,002,284
Montague			959,189
Monterey		15,777	30,726
Montgomery			65,708
Mount Washington	7,491	41,886	2,518
Nahant	289,529	157,791	243,081
Nantucket	509,410		59,550
Natick	3,053,489	2,444,348	1,940,724
Needham	2,775,748	259,216	1,314,973
New Ashford	16,042	9,203	6,707
New Bedford	84,386,683	901,313	18,514,118
New Braintree			83,910
New Marlborough			43,147
New Salem			72,360
Newbury			359,211

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Newburyport	2,602,390	1,736,621	1,281,904
Newton	7,200,966	1,732,789	4,214,273
Norfolk	2,277,080		729,708
North Adams	12,121,748	233,872	3,510,946
North Andover	2,842,537	151,695	1,470,810
North Attleborough	10,945,545		2,316,040
North Brookfield	3,392,546		631,723
North Reading	2,063,101	1,189,787	855,445
Northampton	6,273,507	727,239	3,244,172
Northborough	1,733,502	76,900	835,312
Northbridge	8,857,147	3,865	1,824,507
Northfield			228,453
Norton	7,936,283		1,653,407
Norwell	1,444,754	680,878	546,549
Norwood	2,736,002	3,354,660	2,082,660
Oak Bluffs	194,803		54,273
Oakham	53,045		123,666
Orange	5,045,948	2,661	1,265,706
Orleans	159,015		141,142
Otis			23,449
Oxford	7,004,588		1,680,631
Palmer	7,711,000		1,486,110
Paxton	11,521		354,437
Peabody	12,193,412	3,951,625	3,974,112
Pelham	78,450		113,467
Pembroke	4,028,923		1,322,881
Pepperell			982,940
Peru	38,116		82,262
Petersham	143,049		82,034
Phillipston		5,519	114,062
Pittsfield	26,045,981	1,107,722	6,217,312
Plainfield	14,612		31,917
Plainville	1,468,362		574,931
Plymouth	16,504,118		2,778,265

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Plympton	400,132		181,359
Princeton			230,728
Provincetown	210,280	27,912	117,912
Quincy	11,369,375	14,555,556	8,188,218
Randolph	9,034,197	2,297,597	2,910,119
Raynham	375		898,457
Reading	4,213,444	1,931,472	1,715,014
Rehoboth			722,009
Revere	20,000,048	6,712,698	4,719,219
Richmond	279,778		93,531
Rochester	533,295		320,432
Rockland	8,559,000	496,221	1,908,485
Rockport	900,798		351,753
Rowe	30,865		3,185
Rowley		143,746	347,585
Royalston			106,459
Russell			172,544
Rutland	113,236		608,028
Salem	9,895,526	4,151,021	3,163,451
Salisbury			488,315
Sandisfield			24,555
Sandwich	2,938,330	111,247	635,744
Saugus	2,900,906	2,245,040	1,804,307
Savoy	303,773	17,367	80,321
Scituate	2,437,399	1,101,119	1,157,453
Seekonk	2,622,292		970,882
Sharon	3,128,579	78,642	1,089,179
Sheffield		15,023	174,154
Shelburne			208,778
Sherborn	233,446	26,364	170,101
Shirley	2,954,055	233,500	833,280
Shrewsbury	4,974,072	376,077	1,896,263
Shutesbury	438,694		108,546
Somerset	1,878,003		1,103,962

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Somerville	21,346,569	20,410,649	9,923,561
South Hadley	5,141,723	25,437	1,985,516
Southampton	1,328,397		444,684
Southborough	670,463		339,497
Southbridge	11,863,229		2,660,263
Southwick			879,653
Spencer	159,724		1,618,304
Springfield	164,005,009	2,302,181	25,152,552
Sterling			530,739
Stockbridge			87,293
Stoneham	1,963,434	2,553,177	1,748,452
Stoughton	7,466,833	129,781	2,657,611
Stow		8,776	328,445
Sturbridge	879,511		560,375
Sudbury	1,444,646	807,321	729,602
Sunderland	546,896		361,640
Sutton	3,140,485		602,345
Swampscott	1,473,304	443,359	809,422
Swansea	3,993,039		1,553,215
Taunton	30,051,709		7,102,668
Templeton			944,906
Tewksbury	8,621,146		2,337,981
Tisbury	196,235		81,931
Tolland		12,413	4,314
Topsfield	360,519	318,725	339,517
Townsend			883,614
Truro	145,726		23,316
Tyngsborough	4,414,543		681,986
Tyringham	18,600		10,848
Upton			398,147
Uxbridge	6,144,829		1,127,803
Wakefield	3,388,693	1,809,635	1,928,379
Wales	586,948		176,518
Walpole	3,705,636	1,112,115	1,492,031

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Waltham	5,098,201	6,869,270	4,402,048
Ware	5,357,747	19,199	1,298,256
Wareham	9,681,620		1,670,620
Warren			556,777
Warwick		36,354	58,414
Washington	13,217	29,889	53,863
Watertown	1,947,012	5,571,114	2,476,064
Wayland	1,691,299	352,813	576,176
Webster	6,391,071	78,026	1,844,522
Wellesley	2,224,969	121,858	1,113,409
Wellfleet	90,115		48,926
Wendell		32,131	93,315
Wenham		175,913	255,391
West Boylston	1,238,308	85,259	527,035
West Bridgewater	1,541,375	59,411	513,000
West Brookfield			349,258
West Newbury			231,462
West Springfield	10,363,621		2,564,911
West Stockbridge			86,538
West Tisbury		229,569	24,371
Westborough	1,899,161	182,536	798,873
Westfield	23,111,680		4,669,885
Westford	3,866,959	1,126,887	1,073,002
Westhampton	240,986		105,104
Westminster			465,266
Weston	890,283		332,057
Westport	2,651,817		1,057,762
Westwood	1,539,577	45,632	596,949
Weymouth	16,014,744	3,050,391	5,912,560
Whately	71,258		98,950
Whitman			1,730,174
Wilbraham			986,714
Williamsburg	346,959		249,759
Williamstown	832,685		789,022

Chap. 194

Municipality	7061-0008 Chapter 70 School Aid	0611-5500 Additional Assistance	Lottery Distribution
Wilmington	2,477,379	1,578,564	1,092,991
Winchendon	8,242,752	31,919	1,208,289
Winchester	2,403,310	433,387	1,059,633
Windsor	3,197	35,260	48,194
Winthrop	4,121,183	2,878,558	2,090,365
Woburn	3,459,720	4,513,710	2,542,700
Worcester	110,232,004	14,860,192	23,727,967
Worthington			84,297
Wrentham	2,724,836		789,337
Yarmouth			912,686
Total Aid to Regional Schools	436,403,815		
Total	2,558,014,550	476,315,282	597,453,642

Regional Schools	7061-0008 Chapter 70 School Aid
Acton Boxborough	2,431,842
Adams Cheshire	8,888,371
Amherst Pelham	6,722,489
Ashburnham Westminster	7,275,286
Assabet Valley	2,786,513
Athol Royalston	13,515,826
Berkshire Hills	2,718,840
Berlin Boylston	743,609
Blackstone Millville	9,028,689
Blackstone Valley	5,216,573
Blue Hills	3,241,121
Bridgewater Raynham	15,678,636
Bristol County	1,305,453
Bristol Plymouth	4,395,011
Cape Cod	1,742,506
Central Berkshire	6,685,966
Chesterfield Goshen	499,255
Concord Carlisle	1,315,158

Regional Schools	7061-0008 Chapter 70 School Aid
Dennis Yarmouth	5,553,348
Dighton Rehoboth	9,007,642
Dover Sherborn	1,017,345
Dudley Charlton	13,623,294
Essex County	3,477,210
Farmington River	313,288
Franklin County	1,923,571
Freetown Lakeville	4,672,586
Frontier	1,090,100
Gateway	6,315,599
Gill Montague	5,856,008
Greater Fall River	9,037,368
Greater Lawrence	10,794,575
Greater Lowell	14,046,125
Greater New Bedford	14,030,539
Groton Dunstable	5,398,664
Hamilton Wenham	2,634,748
Hampden Wilbraham	7,212,952
Hampshire	1,858,138
Hawlemont	650,166
King Philip	3,843,633
Lincoln Sudbury	1,597,652
Ralph C. Mahar	3,256,411
Marthas Vineyard	694,665
Masconomet	2,038,119
Mendon Upton	3,501,467
Minuteman	2,261,713
Mohawk Trail	6,627,424
Montachusett	5,915,152
Mount Greylock	1,758,080
Narragansett	6,650,379
Nashoba	5,089,754
Nashoba Valley	2,016,336
Nauset	2,925,866

Regional Schools	7061-0008 Chapter 70 School Aid
New Salem Wendell	675,972
Norfolk County	660,916
North Middlesex	17,972,812
North Shore	1,424,038
Northhampton Smith	796,992
Northboro Southboro	1,340,344
Northeast Metropolitan	5,602,887
Northern Berkshire	2,541,103
Old Colony	1,953,653
Old Rochester	1,345,175
Pathfinder	1,956,234
Pentucket	9,564,003
Pioneer	3,244,347
Quabbin	10,900,999
Quaboag	6,870,781
Shawsheen Valley	3,236,986
Silver Lake	9,425,513
South Middlesex	2,375,947
South Shore	1,899,870
Southeastern	8,007,558
Southern Berkshire	1,550,218
Southern Worcester	4,285,441
Southwick Tolland	6,242,144
Spencer East Brookfield	9,962,656
Tantasqua	5,103,853
Tri County	3,157,858
Triton	7,063,371
Up-Island	773,279
Upper Cape Cod	1,519,794
Wachusett	14,597,419
Whitman Hanson	17,295,963
Whittier	4,888,865
Worcester Trade	7,285,763
Regional Total	436,403,815

SECTION 4. The state treasurer shall make advance payments for some or all of periodic local reimbursement or assistance programs to any city, town or regional school district that demonstrates an emergency cash shortfall, as certified by the commissioner of revenue and approved by the secretary of administration and finance, pursuant to guidelines established by said secretary.

SECTION 5. The commissioner of capital asset management and maintenance shall develop a project accounting system for all pool accounts including, but not limited to, asbestos, handicapped access, demolition, fire protection improvement, environmental hazards, air pollution, energy, preventive maintenance, wastewater treatment and toxic waste cleanup. Such project accounting system shall be utilized to assess charges for all project-related costs including, but not limited to, administrative overhead. The commissioner may, in accordance with schedules approved by the secretary of administration and finance, employ or reassign employees of the division to such projects as may be required; provided, however, that salaries and administrative expenses shall be charged to the accounts funding such project. Such charges shall not exceed 2 per cent of the following appropriation accounts: 1102-7881, 1102-7882, 1102-7885, 1102-7886, 1102-7887, 1102-7890, 1102-7893, 1102-7894, 1102-7895, 1102-7896, 1102-7897, 1102-8801, 1102-8819, 1102-8847, 1102-8869, 1102-8880, 1102-8890, 1102-8891, 1102-8892, 1102-8893, 1102-8895, 1102-8897, 1102-8899 and 1102-9802.

SECTION 6. Notwithstanding the provisions of section 31 of chapter 81 of the General Laws or any other general or special law to the contrary, the portion of the Highway Fund allocated for reimbursements to cities and towns for costs actually incurred in constructing, maintaining and policing city or town streets or roads, as appropriated in item 6005-0017 of section 2, shall be distributed in fiscal year 1999 in the same proportion as the fiscal year 1998 distribution of said Highway Fund reimbursements.

SECTION 7. All sums appropriated under the provisions of this act, including supplemental and deficiency budgets, shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of any agency, board or division receiving monies under this act shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons and organizations doing business with the commonwealth.

Each agency, board or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, in-service or apprenticeship training programs and all terms and conditions of employment. The secretary of administration and finance shall conduct an ongoing review of affirmative action steps taken by various agencies, boards or commissions to determine whether such agencies, boards or commissions are complying with this section. Whenever noncompliance is determined by the secretary, he shall hold a public hearing on the matter and report his resulting recommendations to the head of the particular agency, board or di-

Chap. 194

vision, to the governor and to the Massachusetts commission against discrimination. Said secretary shall report on the status of each agency, board or division receiving monies under this act, including supplemental and deficiency budgets, as to compliance or noncompliance with affirmative action policies to the joint committee on public service and the joint committee on commerce and labor on or before December 1, 1998.

SECTION 8. Section 179 of chapter 6 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be in the executive office of environmental affairs a board of underwater archaeological resources, hereinafter referred to as the board. The board shall consist of the state archaeologist or his designee, the state archivist or his designee, the director of waterways or his designee, the director of coastal zone management or his designee, the director of environmental law enforcement or his designee, the executive director of the Massachusetts historical commission or his designee and three persons to be appointed by the governor, one of whom shall be a marine archaeologist and two of whom shall be qualified or certified divers, one to be appointed by the governor chosen from a list submitted by recognized diving organizations. The members shall be appointed for terms of three years; provided, however, that of the initial appointments, two shall be for terms of two years and one shall be for a term of three years. The members shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

SECTION 9. Chapter 6A of the General Laws, as so appearing, is hereby amended by inserting after section 16B the following section:-

Section 16C. Notwithstanding the provisions of any general or special law to the contrary, to the maximum extent allowed by federal law, the commonwealth, including any department, board, commission, division or authority or subdivision thereof, may, subject to appropriation, provide state or local public benefits within the meaning of section 411(c) of the federal Personal Responsibility and Work Opportunity Act to any person, whether or not such person is a citizen or is a qualified alien within the meaning of section 431 of said Personal Responsibility and Work Opportunity Act, 8 U.S.C. section 1641, but only to the extent that such person otherwise satisfies the applicable criteria for such benefits.

SECTION 10. Section 1 of chapter 7 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 5, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 11. Section 3B of chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after the word "education", in line 42, the following words:-
, any fees or charges relative to camping facilities within the scope of the responsibility of the department of environmental management, pursuant to section 1 of chapter 21.

SECTION 12. Section 4A of said chapter 7 is hereby amended by striking out, in line 2, as so appearing, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

Chap. 194

SECTION 13. Paragraph (a) of section 4A of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out the last sentence.

SECTION 14. The first paragraph of section 22 of said chapter 7, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) The purchase of supplies and other property without advertisement or the receipt of bids, where the amount involved will not exceed \$5,000, when, in the judgment of the state purchasing agent, it is expedient;.

SECTION 15. Paragraph (b) of section 38A1½ of said chapter 7, as so appearing, is hereby amended by striking out the definition of "Commissioner" and "Division" and inserting in place thereof the following definition:-

"Commissioner" and "division", the commissioner and the division of capital asset management and maintenance.

SECTION 16. Section 38M of said chapter 7, as so appearing, is hereby amended by striking out, in line 2, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 17. Section 39A of said chapter 7, as so appearing, is hereby amended by striking out, in lines 31 and 131, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 18. Section 39B of said chapter 7, as so appearing, is hereby amended by striking out, in lines 2 and 3, 11 and in line 28, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 19. The first paragraph of section 39B of said chapter 7, as so appearing, is hereby amended by adding the following clause:-

(d) direction, control, supervision, planning and oversight of the scheduled maintenance and repair needs of capital assets owned by the commonwealth.

SECTION 20. Section 39C of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1, 13, and 19, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 21. Section 40A of said chapter 7, as so appearing, is hereby amended by striking out, in lines 2 and 3, 12, 16 and 17, 21, 28, and 36, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 22. Section 40C of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1, 21, 29, and 41, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 23. Section 40D of said chapter 7, as so appearing, is hereby amended by striking out, in lines 4, 21, 24, 58, and 73, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 24. Section 40E of said chapter 7, as so appearing, is hereby amended by striking out, in lines 7 and 15, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 25. Section 40F of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1, 34, 161, and 186, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 26. Section 40G of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 6, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 27. Section 40H of said chapter 7, as so appearing, is hereby amended by striking out, in line 6, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 28. Section 40I of said chapter 7, as so appearing, is hereby amended by striking out, in line 4, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 29. Section 40J of said chapter 7, as appearing, is hereby amended by striking out, in lines 9 and 30, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 30. Section 40K of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 13, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 31. Section 40L of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 43, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 32. Section 40M of said chapter 7, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 33. Section 40N of said chapter 7, as so appearing, is hereby amended by striking out, in lines 46 and 100, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 34. Section 41A of said chapter 7, as so appearing, is hereby amended by striking out, in lines 2, 4 and 11, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 35. Section 41B of said chapter 7, as so appearing, is hereby amended by striking out, in line 41, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance,- and by striking out, in line 54, the word "operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 36. Section 41C of said chapter 7, as so appearing, is hereby amended by striking out, in lines 2 and 3, 19, 21, and 23, the words "planning and operations" and

Chap. 194

inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 37. Section 42A of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 2, 4 and 5, and 25, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 38. Section 42H of said chapter 7, as so appearing, is hereby amended by striking out, in line 7, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 39. Section 42J of said chapter 7, as so appearing, is hereby amended by striking out, in line 45, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 40. Section 43A of said chapter 7, as so appearing, is hereby amended by striking out, in line 2, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 41. Section 43F of said chapter 7, as so appearing, is hereby amended by striking out, in line 19, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 42. Section 43F½ of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1, 5 and 17, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 43. Section 51 of said chapter 7, as so appearing, is hereby amended by striking out the third paragraph.

SECTION 44. Section 13 of chapter 7A of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 45. Chapter 7A of the General Laws is hereby amended by adding the following section:-

Section 16. The comptroller, in consultation with the secretary of administration and finance and the attorney general, shall administer the Liability Management and Reduction Fund, established under section 2SS of chapter 29. The comptroller may appoint a liability manager of said fund whose compensation shall be paid out of said fund. The comptroller shall have the following powers and duties with respect to the fund:

(a) to use amounts in the fund to make payments or to purchase insurance coverage to make payments for the purposes set forth in said section 2SS of said chapter 29; provided, however, that any insurance coverage so purchased shall recognize and preserve the commonwealth's constitutional, statutory and common law rights, defenses, immunities and control including, without limitation, the provisions of chapters 12 and 258;

(b) to determine a deductible amount, not to exceed \$5,000, up to which an agency shall be directly responsible for making payment relative to a claim arising under said

Chap. 194

chapter 258 and which deductible shall be excluded from the computation of the premiums subsequently charged to such agency;

(c) to determine and assess not later than October 1, 1998 for fiscal year 1999 and at least annually for each fiscal year thereafter the premium amounts to be charged to each state agency; provided, however, that:

(1) premiums shall be set and adjusted based on factors including, but not limited to:

(A) a five-year experience rating reflecting, without limitation, liability incurred by reasons of judgments, settlements and litigation costs for tort claims pursuant to said chapter 258;

(B) minimum-estimated-liability amounts for pending claims to which presentment has been made pursuant to said chapter 258;

(C) the record of the agency regarding safety or other training programs designed to reduce litigation or to detect and defend against frivolous or insubstantial claims; and

(D) any extraordinary factors warranting an adjustment in the discretion of the comptroller;

(2) the premiums assessed for fiscal year 1999 shall be not greater than 10 per cent of the average annual liability incurred by such agency or its employees during the preceding five years by reason of judgments, settlements and litigation costs for tort claims pursuant to said chapter 258;

(3) the premiums assessed for fiscal year 2000 shall be not greater than 50 per cent of the average annual liability incurred by such agency during the preceding five years by reason of judgments, settlements and litigation costs for tort claims pursuant to said chapter 258;

(4) the premiums assessed for fiscal year 2001 shall be not greater than 75 per cent of the average annual liability incurred by such agency during the preceding five years by reason of judgments, settlements and litigation costs for tort claims pursuant to said chapter 258;

(5) any disputes between agencies relative to their respective proportions of responsibility for any resolved or pending claim or disputes relative to the valuation or the appropriate nature of such claims shall be determined by the comptroller, in consultation with the attorney general; and

(6) the comptroller may pay rebates to agencies which rebates reduce such agencies' resolved and pending claims totals below expected levels in any fiscal year and may assess surcharges on agencies experiencing unexpectedly high resolved and pending claims totals in any fiscal year;

(d) to make such other expenditures from the fund as are necessary, appropriate and reasonable for management and administration of the fund, including personnel costs; provided, however, that all direct and indirect costs for such employees shall be paid from the fund; and provided further, that the fund shall not be used directly or indirectly for the compensation of attorneys representing the commonwealth or its officers or employees.

Chap. 194

The comptroller shall promulgate rules and regulations to effectuate the purposes of the fund including, but not limited to, the manner in which each agency shall be assessed a premium.

Documents indicating the estimated value of a particular pending claim shall not be public records and shall not be discoverable or admissible in evidence in any action.

SECTION 46. Section 5 of chapter 7B of the General Laws, as so appearing, is hereby amended by striking out, in line 10, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 47. Section 9 of said chapter 7B, as so appearing, is hereby amended by striking out, in line 3, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 48. Section 1 of chapter 8 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 5, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 49. Said section 1 of said chapter 8, as so appearing, is hereby further amended by striking out, in line 5, the word "deputy".

SECTION 50. Section 4 of said chapter 8, as so appearing, is hereby amended by striking out, in line 2, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 51. Section 10 of said chapter 8, as so appearing, is hereby amended by striking out, in line 9, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 52. Section 16A of said chapter 8, as so appearing, is hereby amended by striking out, in line 22, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 53. Section 17 of said chapter 8, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 54. Section 35G of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

All revenues credited under this section shall remain in said Motorcycle Safety Fund, subject to appropriation, to administer a motorcycle safety program which shall include, but not be limited to, funding Motorcycle Safety Foundation approved rider education courses and instructor training, as well as public awareness efforts. The state treasurer shall not deposit such revenues in or transfer such revenues to the General Fund or any other fund other

than the Motorcycle Safety Fund. The motorcycle safety program shall be administered by the executive director of the governor's highway safety bureau under the direction of the secretary of public safety. Said bureau shall maintain a policy manual for the program that shall provide minimum requirements for instructors and businesses that offer approved rider education courses in the commonwealth.

SECTION 55. Said chapter 10 is hereby further amended by striking out section 59, as so appearing, and inserting in place thereof the following section:-

Section 59. There is hereby established on the books of the commonwealth a separate fund known as the Head Injury Treatment Services Trust Fund. Said trust fund shall consist of monies paid to the commonwealth pursuant to sections 20 and 24 of chapter 90 and any interest or investment earnings on such monies. The state treasurer, ex officio, shall be the custodian of said trust fund and shall receive, deposit and invest all monies transmitted to him under the provisions of this section and shall credit interest and earnings on the trust fund to said trust fund. Funds collected pursuant to said section 24 shall be appropriated for the purpose of developing and maintaining nonresidential rehabilitation services for head injured persons in such a manner as the commissioner of rehabilitation may direct and may be appropriated for residential services as authorized by law. Funds collected pursuant to said section 20 shall be appropriated by means of a revenue retention account, as defined in section 1 of chapter 29, for the purpose of developing and maintaining residential and nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct.

SECTION 56. Chapter 14 of the General Laws is hereby amended by inserting after section 1A the following section:-

Section 1B. There shall be within the department of revenue a division of local services headed by a deputy commissioner who shall be appointed by the commissioner with the approval of the secretary of administration and finance, and may be removed in like manner. Said deputy commissioner shall be a person of ability and experience and shall devote his entire working time to the duties of his office. Said position shall not be subject to the provisions of chapter 31 or section 9A of chapter 30. Said department shall ensure that said division shall be provided with, subject to appropriation, such resources as may be necessary to implement the provisions of this section.

Said division shall have under its administration and management, a bureau of municipal data management and technical assistance, a bureau of local assessment and a bureau of accounts. Said division shall institute programs for technical assistance and the education of financial officials of cities and towns, for the monitoring of municipal audits performed by independent public accountants, for the supervision of the installation of accounting systems meeting generally accepted accounting principles, for the development and distribution of materials which may be sold to cities and towns, for the technical assistance and training of officials of cities, towns and districts in local property tax assessment administration, accounting and financial management review and for such other programs

Chap. 194

as may be established from time to time by the commissioner or deputy commissioner. Said division shall develop and maintain a municipal data management system.

SECTION 57. Section 54 of chapter 15 of the General Laws, as so appearing, is hereby amended by inserting after the word "board", in line 122, the following words:- , the chairmen of the house and senate committees on ways and means, the house and senate chairmen of the joint committee on education, arts and humanities and the secretary of administration and finance.

SECTION 58. The third paragraph of section 19A of chapter 15A, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:- (1) eligibility for the program shall be limited to persons who have graduated in the top 15 per cent of their undergraduate classes or who have graduated with honors designations, as certified by the institution attended by any such applicant;.

SECTION 59. Said chapter 15A is hereby further amended by inserting after section 24 the following section:-

Section 24A. With respect to purchases by a board of trustees authorized by section 24, including a purchase by the board of trustees of the University of Massachusetts as authorized by section 13 of chapter 75, a board of trustees and the board of higher education may join together for its purchases with one or more public or private educational institutions in the commonwealth for the purpose of forming or joining a cooperative purchasing consortium to be known as the Massachusetts Higher Education Consortium; provided, however, that each such educational institution shall accept sole responsibility for all payments, debts and liabilities due the vendor for its share of such purchases. Said consortium shall be governed by a board of directors elected by its member institutions. Any paid staff of the consortium shall be located on the campus of a public member. Compensation of such staff shall be paid by dues or other consortium income and not by appropriation by the commonwealth; provided, however, that such staff may only enter into purchase agreements that have been procured through public bidding. Said consortium shall publish an annual report of its activities, which report shall include an audited financial statement which shall have been independently audited by a certified public accountant.

SECTION 60. Section 17A of chapter 21 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words "rotate annually among" and inserting in place thereof the following words:- be by vote of.

SECTION 61. Said section 17A of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 38 and 39, the words "snowmobiles and other safety, rescue and patrol equipment appropriate for winter use," and inserting in place thereof the following words:- safety, rescue, patrol and maintenance equipment.

SECTION 62. The seventh paragraph of section 8 of chapter 21A of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Said department shall administer and maintain a riverways program that shall provide, in addition to other services, technical assistance to cities, towns and citizens groups regarding protec-

tion and restoration of the ecological integrity of rivers, streams and riparian lands and promotion of public access to such rivers, streams and riparian lands.

SECTION 63. Chapter 21A of the General Laws is hereby amended by inserting after section 4A the following section:-

Section 4B. There is hereby established within the executive office of environmental affairs an office of geographic and environmental information. Subject to appropriation, it shall be the responsibility of said office to collect, consolidate, store and provide geographic and environmental information in order to improve stewardship of natural resources and the environment, promote economic development and guide land-use planning, risk assessment, emergency response and pollution control. In order to accomplish such purposes, the duties of said office shall include, but not be limited to:

(a) fostering cooperation among local, state, regional and federal government agencies, academic institutions and the private sector in order to improve the quality, access, cost-effectiveness and utility of geographical and environmental information as a strategic resource for the state;

(b) coordinating data sharing and executing data sharing agreements among all levels of government and private users;

(c) identifying, developing, correcting, updating, distributing and assembling geographical and environmental data;

(d) setting standards for the acquisition and management of geographical and environmental data by any agency, authority or other political subdivisions of the commonwealth;

(e) providing technical assistance, training and computer hardware, software and programming to municipalities, regional agencies or political subdivisions of the commonwealth;

(f) archiving and serving as a depository for geographical and environmental information and developing public access to and distribution of such information;

(g) creating a network of regional service centers, subject to appropriation, to assist commonwealth, its political subdivisions and the public in developing and using GIS technology and data;

(h) requiring that all GIS data funded through grants in any part by the commonwealth shall conform to standards developed by the office and be made available for distribution;

(i) creating a category of commonwealth resources of the natural, cultural and historical resources in need of protection;

(j) establishing a competitive grants program, subject to appropriation, for municipalities and regional agencies;

(k) setting up a geographic information advisory committee comprised of representatives from state agencies, regional and local entities, academic institutions, non-profit organizations and the private sector which shall provide an annual report for strength-

ening the geographic information system to the joint committee on natural resources and agriculture and the office; and

(l) coordinating the development and dissemination of scientific and technical expertise to support an interagency, cross-disciplinary approach to natural resource management.

SECTION 64. The General Laws are hereby amended by inserting after chapter 21J the following chapter:-

CHAPTER 21K.

MITIGATION OF HAZARDOUS MATERIALS.

Section 1. As used in this chapter the following words shall have the following meanings, unless the context clearly requires otherwise:-

"Act of God", an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight. A natural disaster is unanticipated when it is of a type unexpected given the area, the season and the past history of conditions.

"Advisory board", the hazardous materials mitigation emergency response advisory board established in section 2.

"Department", the department of fire services.

"Division", the division of hazardous materials response within the department of fire services.

"Emergency mitigation response", those actions taken by the hazardous materials mitigation emergency response team due to the release or threatened release of hazardous materials which the department reasonably believes poses an imminent threat to the life, health or safety of the public.

"Fiduciary", a person (a) who is acting in any of the following capacities: as an executor or administrator as described in section 1 of chapter 197, including a voluntary executor or a voluntary administrator; a guardian; a conservator; a trustee under a will or inter vivos instrument creating a trust under which the trustee takes title to, or otherwise controls or manages, property for the purpose of protecting or conserving such property under the ordinary rules applied in the courts of the commonwealth; a court-appointed receiver; a trustee appointed in proceedings under federal bankruptcy laws; an assignee or a trustee acting under an assignment made for the benefit of creditors pursuant to sections 40 to 42, inclusive, of chapter 203; or a trustee, pursuant to an indenture agreement or similar financing agreement for debt securities, certificates of interest of participation in any such debt securities or any successor thereto; and, (b) who holds legal title to, controls or manages, directly or indirectly, any site or vessel as a fiduciary for purposes of administering an estate or trust of which such site or vessel is a part.

"Hazardous material", material including, but not limited to, material, in whatever form which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with a sub-

Chap. 194

stance, constitutes a present or potential threat to human health, safety or welfare or to the environment when improperly stored, treated, transported, disposed of, used or otherwise managed. Hazardous materials shall include, but not be limited to, oil and all substances which are included under 42 USC §9601(14).

"Hazardous materials mitigation emergency response plan", a contingency plan developed by the hazardous materials mitigation emergency advisory board to be followed by the hazardous materials mitigation emergency response team when responding to a release or threat of release of hazardous materials which pose an imminent threat to the life, health or safety of the public.

"Imminent threat", a threat which poses a significant risk of harm to the life, health or safety of the public if it were present or left unabated for even a short period of time.

"Incident commander", the local fire chief of the jurisdiction in which there has been a release or threat of release which requires a hazardous materials mitigation emergency response.

"Indicia of ownership primarily to protect a security interest", only those interests in real or personal property typically acquired and held as security or collateral for payment or performance of an obligation. Such interests shall include, but not be limited to, a mortgage, deed of trust, lien, security interest, assignment, pledge or other right or encumbrance against real or personal property, including those security interests which have a contingent interest component, which are furnished by the owner thereof to assure repayment of a financial obligation, and contractual participation rights in such interests; provided, however, that the contract conferring such rights shall confer no other interest in the site or vessel.

"Marshal", the state fire marshal.

"Oil", insoluble or partially soluble oil of any kind or origin or in any form including, but not limited to, crude or fuel oil, lube oil or sludge, asphalt and soluble or partially soluble derivatives of mineral, animal or vegetable oil.

"Owner" or "operator", "Owner" or "operator" as defined in section 2 of chapter 21E.

"Person", an agency or political subdivision of the federal government or the commonwealth, a state, public or private corporation or authority, an interstate body, foreign nation, individual, trust, firm, joint stock company, partnership, association or other entity and any officer, employee or agent of such person and any group of persons.

"Public utility company", a public utility as defined in clause (7) of paragraph (j) of section 5 of chapter 21E.

"Release", a spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, but excluding: (a) emissions from the exhaust of an engine; (b) release of source, byproduct or special nuclear material from a nuclear incident, as such terms are defined in 42 USC §2014, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under 42 USC §2210; (c) the normal application of fertilizer; and (d) the application of pesticides consistent with their labeling.

"Secured lender", (a) a person who holds indicia of ownership in a site or vessel primarily to protect that person's security interest in such site or vessel; (b) two persons when one holds indicia of ownership in a site or vessel primarily to protect the other person's security interest in such site or vessel if the person holding the indicia of ownership is: (1) wholly-owned by the person holding the security interest; or (2) an affiliate of the person holding the security interest and both are wholly-owned, directly or indirectly, by the same person; and (c) persons who hold contractual participation rights in a security interest and any of the following which hold indicia of ownership in a site or vessel primarily to protect that security interest: (1) a wholly-owned subsidiary of any such person; (2) an affiliate of any such person if both are wholly-owned, directly or indirectly, by the same person; and (3) any entity formed among such persons, subsidiaries or affiliates.

"Site", a building, structure, installation, equipment, pipe or pipeline, including a pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, or any other place or area where oil or hazardous material has been deposited, stored, disposed of, or placed or otherwise come to be located and which requires an emergency mitigation response. Site shall not include a consumer product in consumer use or a vessel.

"Team leader", an individual vested with the authority to oversee and command the operation of the hazardous materials mitigation emergency response team during an emergency mitigation response action.

"Threat of release", a substantial likelihood of a release which requires action to prevent or mitigate an imminent threat to the life, health or safety of the public which may result from such release.

"Trade secret", anything tangible which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production or management information, design, process, procedure, formula, invention or improvement.

"Vessel", every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water.

Section 2. There is hereby established within the department a hazardous materials mitigation emergency response advisory board. Said board shall review the development of standards, rules, procedures and regulations for hazardous materials mitigation emergency response and cost recovery. The board shall consist of the state fire marshal or his designee, the commissioner of environmental protection or his designee and four members to be appointed by the governor, two of whom shall be representatives of the Fire Chiefs Association of Massachusetts, neither of whom shall be a hazardous materials technician, and two of whom shall be representatives of the Professional Fire Fighters of Massachusetts, of whom one shall be a hazardous materials technician. The commissioner of environmental protection or his designee shall be a nonvoting member. No member shall receive compensation for service as a member of the board but shall receive from the commonwealth reimbursement for all expenses necessarily incurred in connection with his official duties.

The governor shall appoint each member for a term of three years. Any member shall be eligible for reappointment.

Section 3. The department, acting through the division, administered by the state fire marshal or his designee, shall prepare and from time to time update a hazardous materials mitigation emergency response plan. The department, in consultation with the board, shall promulgate such regulations, procedures and standards as it deems necessary for the implementation, administration and enforcement of this chapter. Such regulations, procedures and standards shall be developed by the department with input and review of the board and may include provisions waiving or limiting the applicability of this chapter as to any matter which the department determines to be adequately regulated by another program or government agency. The department shall integrate its implementation and enforcement of this chapter in conjunction with other programs established for the protection of the public health, safety, welfare and the environment, including the National Contingency Plan and the Massachusetts Contingency Plan.

Section 4. The department may, at the request of the local fire department or on its own authority, dispatch member departments of the hazardous materials mitigation emergency response plan to a site in the commonwealth for the purpose of conducting an emergency mitigation response for a hazardous material release or threat of release. During a declared emergency mitigation response action, the team leader shall have complete operational authority for hazardous materials team operations at all times. Once the team leader has determined that the imminent threat of harm from the hazardous materials release has been satisfactorily mitigated, the team leader shall thereafter notify the incident commander. The incident commander shall have authority over the emergency mitigation response site during a declared emergency mitigation response.

Any emergency mitigation response action taken by a member department under the hazardous materials mitigation emergency response plan shall be deemed to have been taken on behalf of the department and for the benefit of the commonwealth for the purpose of implementing the provisions of this chapter. Nothing in this chapter shall be construed in any manner to limit or abridge the right of the department of environmental protection to respond to a release or threat of release pursuant to chapter 21E.

Section 5. (a) Except as otherwise provided in this section: (1) the owner or operator of a vessel or a site from which there is or has been a release of hazardous materials; (2) any person who at the time of storage or disposal owned or operated any vessel or site from which said hazardous materials were stored or disposed and from which there has been a release; (3) any person who by contract, agreement or otherwise directly or indirectly arranged for or engaged in the transport, disposal, storage or treatment of hazardous materials in a site or from a vessel from which there is or has been a release of hazardous materials; or (4) any person who otherwise caused or is legally responsible for a release of hazardous materials from a vessel or a site, shall be liable, without regard to fault, to the commonwealth for the reimbursement of all associated costs, as determined by the department, for an emergency mitigation response action.

Chap. 194

(b) The department shall provide an owner, operator or other party whom it reasonably believes to be responsible with an itemized bill of all costs incurred for which the department is seeking reimbursement. Such bill shall be so provided within 60 days from the department ascertaining the identity of the owner, operator or other responsible party reasonably believed to be liable and such bill shall: (1) identify the vessel or the site and date where the response occurred; (2) identify and describe the response action taken; and (3) describe the legal and factual basis for the department's claim to the noticed party for liability pursuant to this section.

(c) Reimbursement for emergency mitigation response costs pursuant to this chapter shall be in addition to any other remedy otherwise available and shall not be construed in any manner to limit or abridge the right of a person, including the commonwealth, to recover all other reasonable costs, damages, penalties or fines pursuant to chapter 21E, or any other applicable law, statute, rule or regulation.

(d) No person, except a person liable pursuant to this chapter, who without charge provides assistance at the request of a duly authorized representative of the department in mitigating a hazardous materials release, shall be held liable for civil damages as the result of an act or omission by him in mitigating a hazardous materials release, except for acts or omissions of gross negligence or willful misconduct.

(e) There shall be no liability under subsection (a) for a person otherwise liable who can establish by a preponderance of the evidence that the release of hazardous material and the costs incurred as a result of an emergency mitigation response by the department resulting therefrom were caused by: (1) an act of God; (2) an act of war; or (3) an act or omission of a third party other than an employee or agent of the person, or of one whose act or omission occurs in connection with a contractual relationship directly or indirectly with the person, if such person establishes that he exercised due care with respect to the hazardous material and that he took precautions against foreseeable acts or omissions of a third party and the consequences that could foreseeably result from such act or omission.

(f) A person who owns a one to four family residence that is an emergency mitigation response site at which the department has incurred emergency mitigation response costs for the release of oil shall not be liable to the department for those costs if he can establish by a preponderance of the evidence that: (1) he is not a person described in clauses (3) and (4) of subsection (a); (2) the site was being used exclusively as a one to four family residence throughout his ownership and he claimed permanent residency at the site; and (3) he immediately notified the local fire department of the release of oil as soon as he had knowledge of it.

(g) All persons liable pursuant to this section for costs incurred as the result of an emergency mitigation response shall be liable jointly and severally.

(h) No indemnification, hold harmless or similar agreement or conveyance shall be effective to transfer from the owner or operator of a site or from any other responsible person who may be liable for a release of hazardous material under this section to any other person

the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(i) Notwithstanding any other provision of this chapter, no person who is otherwise liable for a hazardous material release for which the department has incurred costs from an emergency mitigation response pursuant to this chapter, shall avoid, reduce, or postpone such liability or such person's ability to pay for such liability or be allowed to avoid, reduce or postpone such liability or such person's ability to pay for such liability: (1) by establishing any form of estate or trust if such estate or trust is intended to be a device to avoid, reduce or postpone such liability or such person's ability to pay such liability; (2) by establishing indicia of ownership to protect what purports to be a bona fide security interest but what is intended to be a device to avoid, reduce or postpone such liability or such person's ability to pay for such liability; (3) by a conveyance or transfer of ownership or control of property or assets of any kind that purports to be a bona fide transaction but which is intended to avoid, reduce or postpone such liability or such person's ability to pay for such liability; or (4) by any other means that purport to be bona fide but are intended to avoid, reduce or postpone such liability or such person's ability to pay for such liability.

(j) An agency of the commonwealth or a public utility company that owns a right of way that is a site at which the department has incurred costs for an emergency mitigation response shall not be liable to the commonwealth for such costs if the agency or public utility can establish by a preponderance of the evidence that: (1) it is not the owner or operator of any building, structure, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft from which the release has occurred; (2) it is not a person or successor to a person described in clause (2), (3), or (4) of paragraph (a); (3) no act of the agency or public utility company, or of the agency or public utility company's employee or agent, caused or contributed to the release of hazardous materials or caused the release of hazardous materials to become worse than it otherwise would have been; (4) it notified the local fire department and the department of environmental protection immediately upon knowledge of a release in accordance with the provisions of chapter 21E; (5) it provided reasonable access, including moving utilities or disrupting service to the site, to the department to conduct emergency mitigation response; or (6) it did not know or have reason to know of the presence of hazardous material on the site when it came into possession of the right of way.

(k) In an action for recovery by the department of the costs of an emergency mitigation response under this chapter, liability to the commonwealth shall be only for the department's actual recoverable response costs, plus litigation costs and reasonable attorney's fees. However, if the court finds by a preponderance of the evidence that any person who is liable has failed to act reasonably or in good faith by refusing to reimburse the department for emergency mitigation response costs as provided by this chapter, it may in its own equita-

Chap. 194

ble discretion award the commonwealth up to three times the total actual recoverable response costs, litigation costs, and attorney's fees.

(l) Notwithstanding the provisions of any general or special law to the contrary, all monies collected by the commonwealth under this chapter by reimbursement, settlement, judgment or otherwise shall be deposited into the general fund.

Section 6. No court shall have jurisdiction to review any issue concerning the adequacy of any emergency mitigation response conducted by the department unless the proceeding in court is an action under section 5 to recover costs of an emergency mitigation response action.

Section 7. (a) Any owner, operator or other responsible party reasonably believed to be liable who is aggrieved by any action of the department may petition the department for administrative review of its actions within ten days of receipt of notice as provided in section 5. The department's review and the procedures for reviewing responses made by the department shall not be adjudicatory proceedings and shall not be subject to the provisions of chapter 30A or any other law governing adjudicatory proceedings. Any owner, operator or other responsible party aggrieved by the decision of the department may bring a civil action in the nature of certiorari pursuant to section 4 of chapter 249; provided, however, that such action shall be commenced within 30 days of the date of determination on review made by the department.

(b) Upon request of the department, the attorney general may bring an action to recover all costs incurred by the commonwealth for an emergency mitigation response as the result of a hazardous material release.

(c) Actions brought by the attorney general pursuant to this chapter to recover emergency mitigation response costs and actions brought by the attorney general to enforce or foreclose liens recorded or filed pursuant to this chapter shall be commenced within five years from the date the commonwealth incurs all such costs or five years from the date the commonwealth discovers that the person against whom the action is being brought is a person liable pursuant to this chapter for a hazardous material release for which the commonwealth has incurred emergency mitigation response costs, whichever is later.

Section 8. Any liability to the commonwealth under this chapter shall constitute a debt to the commonwealth. Any such debt, together with interest thereon at the rate of 12 per cent per annum from the date such debt becomes due, shall constitute a lien on all property owned by persons liable under this chapter when a statement of claim naming such persons is recorded, registered or filed. If a fiduciary or secured lender has title to or possession of the property and is not a person liable under this chapter when a statement of claim is recorded, registered or filed, such debt and interest thereon at the rate of 12 per cent per annum from the date the debt becomes due, shall constitute a lien on the property in question when a statement of claim describing the property is duly recorded, registered or filed. Any lien on real property shall be effective when duly recorded at the registry of deeds or registered in the registry district of the land court in the county or district wherein the land

lies. Any lien for personal property, tangible or intangible, shall require a statement to be filed in accordance with the provisions of chapter 106. Any such statement shall be approved by the department. A lien recorded, registered or filed pursuant to this section shall have priority over any encumbrance theretofore recorded, registered or filed with respect to any site, other than real property principally used as residential housing, described in such statement of claim. All other personal property shall be subject to the priority rules of said chapter 106. Such lien shall continue in force with respect to any real or personal property until a release signed by the department is recorded, registered or filed in the place where the statement of claim as to such property affected by the lien was recorded, registered or filed. The department shall forthwith issue such a release in any case where the debt for which such lien attached, together with interests and costs thereon, has been paid or legally abated. If no action to enforce or foreclose the lien is brought by the deadline prescribed in subsection (b) of section 7, the lien shall be discharged after such deadline. This section shall not apply in any manner to a public utility.

Section 9. Notwithstanding the provisions of any general or special law to the contrary, any information, record or particular part thereof obtained by the department, its personnel or contractors pursuant to the provisions of this chapter, upon request shall be confidential and shall not be considered to be a public record when it is determined by the state fire marshal that such information, record or report relates to secret processes, methods of manufacture or production or that such information, record or report, if made public, would divulge a trade secret.

SECTION 65. Section 1 of chapter 23A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(c) The department may make discretionary and nondiscretionary grants to persons or public or private nonprofit entities for projects and programs which further implement the mission of the department and its agencies and which benefit the general public; provided, however, that said department shall annually make a report to the secretary of administration and finance and the house and senate committees on ways and means on the use of such funds; and provided further, that any such grant shall be issued in accordance with regulations promulgated pursuant to section 15 of chapter 7A of the General Laws.

SECTION 66. Said chapter 23A is hereby further amended by striking out section 3B, as so appearing, and inserting in place thereof the following section:-

Section 3B. There shall be an economic assistance coordinating council, established within the Massachusetts office of business development. Said council shall consist of: the director of economic development or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor and workforce development or his designee; the deputy director of the department of economic development having oversight responsibility of the Massachusetts office of business development or his designee; the president of the Corporation for Business, Work and Learning or his designee; and seven members to be

Chap. 194

appointed by the governor, one of whom shall be from the western region of the commonwealth, one of whom shall be from the central region of the commonwealth, one of whom shall be from the eastern region of the commonwealth, one of whom shall be from the southeastern region of the commonwealth, one of whom shall be from Cape Cod or the islands, one of whom shall be a representative of a higher educational institution within the commonwealth and one of whom shall be from the Merrimack valley, all of whom shall have expertise in issues pertaining to training, business relocation and inner-city and rural development, and all of whom shall be knowledgeable in public policy and international and state economic and industrial trends. Each member appointed by the governor shall serve at the pleasure of the governor. Said council shall adopt bylaws to govern its affairs.

SECTION 67. Clause (ii) of paragraph (a) of section 3D of said chapter 23A is hereby amended by adding the following two subclauses:-

(I) the area has sited within it a facility of at least 1,000,000 square feet, which facility would qualify as an abandoned building within the meaning of 38O of chapter 63; or

(J) the area has sited within it a development project of at least 200 acres to be used for the establishment of a regional technology center with the capability of supporting the build-out of 3,000,000 square feet of commercial or industrial space.

SECTION 67A. Section 3E of said chapter 23A, as so appearing, is hereby amended by striking out, in line 179, the words "so called." and inserting in place thereof the following words:- so called, or to communities applying for economic target area designation that qualify under the criteria set forth in subclauses (I) and (J) of clause (ii) of paragraph (a) of section 3D.

SECTION 68. Section 13C of said chapter 23A, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:-

The advisory commission shall have 31 members one representative from each of the following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging Association, the Massachusetts Camping Ground Association, the New England Bus Association, the Massachusetts cultural council and the Massachusetts historical commission; one representative of a professional sports franchise located in the commonwealth, two representatives of the Massachusetts Visitor Industry Council; the executive directors or their designees of the following regional tourism councils: the Berkshire Hills Visitors Bureau, the Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau, the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the Nantucket Island Chamber of Commerce and the following individuals, who shall not serve as chair: the executive director of tourism in the office of travel and tourism, the executive director of the Massachusetts Convention Center Authority

or his designee, the executive director of Massport or his designee, the commissioner of environmental management, the commissioner of highways or his designee, the chairman of the Massachusetts Turnpike Authority or his designee, the Massachusetts state coordinator of the United States National Park Service, and the house and senate chairmen of the joint committee on commerce and labor or their designees.

SECTION 69. Section 56 of said chapter 23A, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) There shall be within the department of economic development a Massachusetts quasi-public corporation and public purpose agency planning council, hereinafter referred to as the council, which shall not be subject to the control of the department except as provided in this section. The purpose of said council shall be to ensure regular communication and coordination between the quasi-public corporations and public purpose agencies as to their economic development projects, programs and plans. Said council shall consist of the chief executive officers or their designees from each of the following agencies: the Corporation for Business, Work and Learning; the Massachusetts Community Development Finance Corporation; the Massachusetts Corporation for Educational Telecommunications; the government land bank; the Massachusetts Industrial Finance Agency; the Massachusetts Technology Development Corporation; the Massachusetts Micro Electronics Center and Massachusetts Small Business Development Center. The council shall meet from time to time but not less frequently than monthly. The director of economic development shall appoint personnel necessary to coordinate the activities of the council. Said agencies shall be required to submit to the department, in a form and manner prescribed by the department, any and all information detailing any debt or equity investment, the nature and amount of any investments, any real estate or working capital loans, any funds or technical assistance provided to businesses, any other forms of financing or financial assistance provided businesses, the number of businesses created or enhanced as a result of such investments or assistance and the number of jobs created as a result of such investments or assistance. The department shall aggregate all such data and annually submit a report to the secretary of administration and finance and the house and senate committees on ways and means. The council may review and determine whether the present regional offices operated by a corporation subject to this section would appropriately serve the goals of the council in establishing and implementing a more coordinated economic development policy; provided, however, that the council shall maintain not more than eight regional offices through the expansion of offices already in operation or by establishing new offices. Each such office shall be responsible for the implementation of the coordinated plans, programs and projects in its region of the state.

SECTION 70. Section 11C of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in lines 18, 20, 52, 54, 57 and 58, 120, 123, 132, 136 and 142 and 143, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

Chap. 194

SECTION 71. Chapter 28A of the General Laws is hereby amended by adding the following section:-

Section 17. Upon petition of the office, the superior court shall have jurisdiction to enter an order permitting the office to enter and inspect, under such conditions as the court deems appropriate, a facility operated by a person whom the office has reasonable cause to believe is subject to licensure or approval under this chapter.

SECTION 72. Section 1 of chapter 29 of the General Laws, as appearing in the 1996 Official Edition, is hereby further amended by inserting after the definition of "Appropriation" the following definition:-

"Balanced budget", a condition of state finance in which the consolidated net surplus at the end of the fiscal year is greater than or equal to one-half of one per cent of state tax revenues of such fiscal year.

SECTION 73. Said section 1 of said chapter 29, as so appearing, is hereby further amended by inserting after the definition of "State revenue" the following definition:-

"State tax revenues", the revenues of the commonwealth from every tax, surtax, receipt, penalty and other monetary exaction and interest in connection therewith including, but not limited to, taxes and surtaxes on personal income, excises and taxes on retail sales and use, meals, motor vehicle fuels, businesses and corporations, commercial banks, insurance companies, savings banks, public utilities, alcoholic beverages, tobacco, inheritances, estates, deeds, room occupancy and pari-mutuel wagering, but excluding revenues collected by the state from local option taxes, so-called, for further direct distribution to cities and towns.

SECTION 74. Section 2F of chapter 29 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, 13, 22 and 23, 26 and 27, 33 and 34, 44, 51, and 56, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance,- and by striking out, in line 38, the words "deputy commissioner of capital planning and operation" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 75. Section 2G of said chapter 29, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 76. Said chapter 29 is hereby further amended by striking out section 2U, as amended by section 48 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

Section 2U. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Ponkapoag Recreational Fund. There shall be credited to said fund revenues generated from fees or any other revenue source at the Ponkapoag Golf Course in the Blue Hills Reservation in the town of Canton. Such revenues

Chap. 194

shall be credited in the following manner: (1) the first \$700,000 in revenues shall be deposited in said fund and shall be used, subject to appropriation, for capital improvements, equipment and maintenance of said golf course, including the costs of personnel; (2) revenues generated which are in excess of \$700,000, but less than \$1,100,000, shall be credited to the general fund; and (3) revenues generated in excess of \$1,100,000 shall be credited to the subfund established pursuant to subsection (b).

(b) The comptroller shall establish a subfund within said fund which may be expended by the commissioner of the metropolitan district commission, without further appropriation, solely for capital improvements, equipment, and maintenance of said Ponkapoag Golf Course. Any unexpended balance of such subfund at the close of the fiscal year shall remain in such subfund and shall be available for expenditure in subsequent fiscal years for the purposes of such subfund.

SECTION 77. Section 2AA of said chapter 29, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 13 and 14, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 78. Section 2EE of said chapter 29, as so appearing, is hereby amended by striking out, in line 15, the words "including costs of personnel; provided, however" and inserting in place thereof the following words:- provided, however, that no funds expended herein shall be used for the costs associated with personnel including, but not limited to, seasonal employees and full-time equivalent employees, so-called; and provided further.

SECTION 79. Said chapter 29 is hereby further amended by striking out section 2II, as appearing in section 49 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

Section 2II. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Leo J. Martin Recreational Fund. There shall be credited to said fund revenues generated from fees or any other revenue source at the Leo J. Martin Golf Course in the town of Weston and the city of Newton. Such revenues shall be credited in the following manner: (1) the first \$450,000 in revenues shall be deposited in said fund and shall be used, subject to appropriation, for capital improvements, equipment and maintenance of said golf course, including the costs of personnel; (2) revenues generated which are in excess of \$450,000, but less than \$865,000 shall be credited to the general fund; and (3) revenues generated in excess of \$865,000 shall be credited to the subfund established pursuant to subsection (b).

(b) The comptroller shall establish a subfund within said fund which may be expended by the commissioner of the metropolitan district commission, without further appropriation, solely for capital improvements, equipment and maintenance of said Leo J. Martin Golf Course. Any unexpended balance of such subfund at the close of the fiscal year shall remain in such subfund and shall be available for expenditure in subsequent fiscal years for the purposes of such subfund.

Chap. 194

SECTION 80. Said chapter 29 is hereby further amended by striking out section 2 OO, inserted by section 50 of said chapter 43, and inserting in place thereof the following section:-

Section 2 OO. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Local Consumer Inspection Fund. There shall be credited to said fund all amounts generated from item pricing fines, so-called, up to a maximum of \$300,000 in any fiscal year. Amounts credited to the fund shall be used, subject to appropriation, for the purpose of enforcing the provisions of chapters 41, 94, 95, 96, 97, 98, 99, 100A and 101, and such rules and regulations as the director of the division of standards shall promulgate. Any amounts generated from said item pricing fines in excess of \$300,000 in any fiscal year shall not be credited to the fund, but shall be deposited in the general fund.

SECTION 81. Said chapter 29 is hereby further amended by inserting after section 2SS the following two sections:-

Section 2TT. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Liability Management and Reduction Fund. The purposes of said fund shall be to provide: (1) insurance coverage to state agencies by charging premiums to such agencies for the payment of judgments and settlements and the commonwealth's investigation and litigation costs in connection with tort claims under chapter 258; (2) services to reduce the number and size of claims against agencies including, but not limited to, risk reduction training programs and incentive payments of not more than \$1,000 for effective risk reduction suggestions; and (3) such other services and activities as the comptroller shall determine are desirable to create financial and other incentives for agencies to reduce the commonwealth's tort and other monetary liability, including litigation costs; provided, however, that on or before July 1, 1999, any and all proceeds of said fund shall be used exclusively for the purposes outlined in clause (2). The fund shall consist of premiums charged to agencies, any amounts appropriated for the purposes of the fund and interest income from investments made by the state treasurer of amounts in the fund. Monies in the fund shall be expended by the comptroller under section 16 of chapter 7A, without further appropriation, for the purposes of the fund.

The comptroller shall submit not later than December 31 of each year to the house and senate committees on ways and means, the secretary of administration and finance and the attorney general a report of the activities of the fund. The report shall include a financial statement which accounts for the revenues, expenditures and changes in fund balance for the preceding fiscal year. The comptroller shall also submit to said committees and officials, not later than October 1, 1998 not later than October 1 of each fiscal year thereafter, a financial plan presenting all expected and proposed revenues and other financial sources, expenditures and other financial uses, net gain or loss from operations and changes in fund balance. The first such report shall make specific recommendations relative to any proposed decrease in the appropriation in the settlements and judgments account, so-called, and any corresponding

increase in the appropriation to particular agencies, as a result of the experience rating established by the comptroller pursuant to subparagraph (c) of section 16 of chapter 7A. All such reports shall also specify the number and duties of employees of the fund, if any, the amount of any direct appropriation requested or expected and any other information relevant to the achievement of the purposes of the fund. The comptroller may at any time recommend in such reports statutory changes necessary to expand the scope of said section 16 of said chapter 7A and this section in order to cover claims other than those asserted under chapter 258.

Section 2UU. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Danvers State Hospital Reuse Fund. There shall be credited to said fund the first \$100,000 of the proceeds of a sale, lease or other disposition of the Danvers State Hospital disposition site, as defined in section 2 of chapter 180 of the acts of 1997. Amounts credited to said fund shall be available, subject to appropriation, only for expenditure for the needs of mental health clients formerly served by the Danvers State Hospital.

SECTION 82. Section 3 of said chapter 29, as appearing in the 1996 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

An officer having charge of a state agency which receives a periodic appropriation from the commonwealth, including all periodic appropriations to be met from state revenues, shall annually submit statements not later than 30 days after the end of the first fiscal quarter to the budget director and the chairmen of the house and senate committees on ways and means. Such statements shall be revised and resubmitted not later than 30 days after the end of the second fiscal quarter and shall include the following information: (1) the amounts, in detail, appropriated for the preceding and the current fiscal years; (2) the interchanges during the preceding fiscal year between the subsidiary accounts prescribed in accordance with section 27; (3) the deficiencies and overdrafts, if any, in appropriations for the latest complete fiscal year and for the current fiscal year; (4) estimates of the amounts required for ordinary maintenance for the ensuing fiscal year, with an explanation of any increased appropriations recommended and with citations of the statutes relating thereto and a statement indicating the priorities assigned to each program by said officer; and (5) statements showing in detail the revenue of the state agency in his charge for the latest complete fiscal year and the revenue and estimated revenue thereof for the current fiscal year, and his estimated revenue from the same or additional sources for the ensuing fiscal year, with his recommendations as to any changes in the management, practices, rules, regulations or laws governing such state agency which would effect an increase or cause a decrease in revenue from operations, fees, taxes or other sources or which would facilitate the collection thereof; and (6) together with such other information on the expenditures, revenues, activities, output or performance of any such state agency as may be required by rule or regulation of the commissioner and any other information, including the priorities assigned

to each program by such officer required at any time by the budget director. Each such officer shall also submit to the budget director and the chairmen of the house and senate committees on ways and means a statement showing in detail the number of permanent, temporary and part-time positions authorized for the state agency in his charge and the volume of work performed in the latest complete fiscal year, justifying his request for permanent, temporary and part-time positions in the ensuing fiscal year in relation to the volume of work expected to be performed by the state agency.

SECTION 83. Section 3 of said chapter 29, as so appearing, is hereby amended by striking out, in line 43, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 84. Section 4 of said chapter 29, as so appearing, is hereby amended by striking out, in lines 20 and 21 and 26 and 27, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 85. Section 5B of said chapter 29, as so appearing, is hereby amended by striking out, in line 29, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 86. Said chapter 29 is hereby further amended by striking out section 6D, as so appearing, and inserting in place thereof the following two sections:-

Section 6D. Each appropriation account or other authorization to expend monies of the commonwealth contained in the general appropriations and as any supplemental or deficiency appropriations acts shall include the following information: (a) the account number of the appropriation; (b) the purpose of the appropriation and other restrictive language; and (c) the amount of the appropriation or the maximum expenditure allowed, set out in numeric figures. No appropriation otherwise set out in any act shall be valid and the comptroller shall not allow monies to be expended on any appropriation not conforming to the requirements herein established.

The general appropriations act shall include the following sections: (a) section 2 which shall include all direct appropriations and authorizations to retain revenue; (b) section 2B which shall include all appropriations from the Intragovernmental Service Fund; (c) section 2C which shall include all authorizations to continue a prior appropriation, including an amount set forth in numeric figures of the prior appropriation continued; and (d) section 2D which shall include all appropriations of federal grants.

Supplemental and deficiency appropriations acts shall include separate sections for: (a) direct appropriations and authorizations to retain revenue which do not require changes to the purpose of the appropriation or other restrictive language; (b) direct appropriations and authorizations to retain revenue which require new or amended language regarding the purpose of the appropriation or other restrictive language; (c) all appropriations from the Intragovernmental Service Fund; and (d) all authorizations to continue a prior appropriation.

Chap. 194

The provisions of this section shall apply to all appropriations of commonwealth funds, including direct appropriations, retained revenue authorizations, federal grant appropriations, accounts with prior appropriations continued and appropriations from the Intragovernmental Service Fund.

This section shall not apply to appropriations which are included as part of a capital budget.

Section 6E. The governor shall recommend, the general court shall enact, and the governor shall approve a general appropriation bill which shall constitute a balanced budget for the commonwealth. No supplementary appropriation bill shall be approved by the governor which would cause the state budget for any fiscal year not to be balanced.

SECTION 87. Section 7A of said chapter 29, as so appearing, is hereby amended by striking out, in line 5, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 88. Section 7B of said chapter 29, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 89. Section 7C of said chapter 29, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 90. Said section 7C of said 29, as so appearing, is hereby further amended by striking out, in line 13, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 91. Section 7D of said chapter 29, as so appearing, is hereby amended by striking out, in lines 2 and 3, 6 and 7, 15, 24, 34, 36, 50, 55, 58, 62, 69, and 72, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 92. Section 7E of said chapter 29, as so appearing, is hereby amended by striking out, in lines 1 and 2, 19 and 20, 53 and 54, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 93. Section 7F of said chapter 29, as so appearing, is hereby amended by striking out, in lines 1 and 2, 24 and 25, and in line 38, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 94. Section 7G of said chapter 29, as so appearing, is hereby amended by striking out, in line 2, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

Chap. 194

SECTION 95. Section 7H of said chapter 29, as so appearing, is hereby amended by striking out, in lines 9 and 10 and 23, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 96. Section 7I of said chapter 29, as so appearing, is hereby amended by striking out, in lines 16 and 17 and 29, the words "commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 97. Said section 7I of said chapter 29, as so appearing, is hereby further amended by striking out, in lines 20, 23, 27, 36 and 40, the word "deputy".

SECTION 98. Section 7J of said chapter 29, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 99. Section 7K of said chapter 29, as so appearing, is hereby amended by striking out, in lines 18, 30 and 31, and 39, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 100. Section 29F of said chapter 29, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 101. Section 4 of chapter 29A of the General Laws, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 102. Section 6 of said chapter 29A, as so appearing, is hereby amended by striking out, in line 25, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 103. Chapter 29B of the General Laws is hereby repealed.

SECTION 104. Section 39R of chapter 30 of the General Laws, as so appearing, is hereby amended by striking out, in lines 117, 124, 125 and 126, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 105. Said section 39R of said chapter 30, as so appearing, is hereby further amended by striking out, in lines 68 and 69, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 106. Paragraph (f) of section 3 of chapter 31 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

Chap. 194

Any person, who meets the definition of veteran but has not yet been discharged from military service and was serving in the armed forces at the time of examination shall receive the same preference afforded to veterans; provided, however, that such person shall provide official documentation of honorable discharge at the time of appointment. If such person fails to provide proper documentation, such appointment and preference shall be immediately rescinded.

SECTION 107. Section 3 of chapter 32 of the General Laws, as so appearing, is hereby amended by inserting after the word "officer", in line 282, the following words:-
, officers and employees of the general court having police powers;.

SECTION 108. Section 28K of chapter 32 of the General Laws, as so appearing, is hereby amended by adding the following two paragraphs:-

Such employee who fulfills the requirements of the preceding paragraph shall be credited with creditable service for any period after January 1, 1975 and shall contribute to the retirement fund an amount which he would have contributed had such employee remained in the service of the commonwealth or any of its political subdivisions together with regular interest thereon, under the terms and conditions defined by the retirement system of which he is a member. The provisions of this paragraph shall take effect for the members of any retirement system by majority vote of the board of such system, subject to the approval of the legislative body. For the purposes of this section, legislative body shall mean the town meeting for the purposes of a town system, the city council subject to the provisions of its charter in a city system, the district meeting in a district system, the county commissioners in a county system, and the governing body of an authority in an authority system. Acceptance shall be deemed to have occurred upon the filing of a certificate of acceptance with the commissioner.

Notwithstanding the provisions of this section, an employee of the commonwealth or its political subdivisions who is a full-time representative of an employee organization, which has included in its membership employees of the commonwealth or any of its political subdivisions may, while on leave of absence for the purpose of acting as a full-time representative of any such employee organization, be entitled to payment of salary for the period of assignment as a full-time representative of such employee organization, if the collective bargaining agreement entered into between the commonwealth or any of its political subdivisions and the employee organization provides for such payment. For the purpose of this paragraph, political subdivision shall not include a city or town.

SECTION 109. Said chapter 32 is hereby further amended by inserting after section 90C the following section:-

Section 90C½. A state employee or member of the state teachers' retirement system who has been retired under the provisions of this chapter or similar provision of earlier law on a superannuation, accidental disability or ordinary disability retirement allowance and who has completed at least 25 years of creditable service shall have his retirement allowance increased to an amount not to exceed \$10,000; provided, however, that such allowance shall be subject to the provisions of paragraph (e) of section 102.

Chap. 194

SECTION 110. Section 83 of chapter 33 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 14, the word "thirty" and inserting in place thereof the following figure:- 75.

SECTION 111. Section 26A of chapter 35 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 112. Section 28B of said chapter 35, as so appearing, is hereby amended by striking out, in lines 72 and 73, 78 and 79, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 113. Chapter 36 of the General Laws is hereby amended by adding the following section:-

Section 40. Notwithstanding the provisions of any general or special law to the contrary, the state secretary shall promulgate rules and regulations to ensure that all technology purchases by registries of deeds are compatible with each other.

SECTION 114. The second paragraph of section 21A of said chapter 44, as appearing in the 1996 Official Edition, is hereby amended by adding the following sentence:-

Upon receipt of notification from a city, town or regional school district of a decrease in the amount of interest payable related to such projects, the department of education shall recalculate the amount of the state construction grant that is payable to such city, town or regional school district.

SECTION 115. Section 38H of chapter 59 of the General Laws, inserted by section 71 of chapter 164 of the acts of 1997, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) In the case of a nuclear-powered electric generation facility in the commonwealth which exceeds 250 megawatts in size and which was owned in whole or in part by an electric company as of July 1, 1997, whether or not such generation facility is in service as of the date of the collection in rates of the transition costs as defined pursuant to section 1 of chapter 164, such electric company shall not be subject to the provisions of subsections (a) and (b) and, in order to be eligible to collect the full amount of transition costs as approved by the department pursuant to section 1G of said chapter 164, shall enter into an agreement to pay the host community payments in addition to taxes. Such payments in addition to taxes shall be made in equal payments on or before July 31, October 31, January 31 and April 30 of each year by such electric company in the following amounts: for fiscal years 1999, 2000 and 2001, in an amount which equals the amount of tax payments remitted to such host community in fiscal year 1998. Such electric company shall, by the commencement of fiscal year 2002, have entered into an agreement to pay the host community payments in lieu of taxes for such generation facility; provided, however, that such agreement shall be executed as a result of good faith negotiations between the electric company and the host community; provided further, that such agreement shall cover a period of time the greater of which is the

time until the licensed termination date of such facility, as included in the original license or in a renewal of such license or 15 years beginning with fiscal year 1998. For the purposes of this subsection, the standard of good faith shall not require either party to agree to a proposal or require the making of concessions but shall require active participation in negotiations and a willingness to make reasonable concessions and to provide justification for proposals and a sincere effort to reach agreement. In the event that an agreement on such payment in lieu of taxes cannot be effected through such good faith negotiations on or before January 1, 1999, the parties shall submit to arbitration and such arbitration shall be performed by the department of telecommunications and energy or by a state-certified professional arbitrator or arbitration firm appointed by said department and operating in accordance with any applicable rules and regulations. The department shall not approve any plan submitted by such electric company to utilize the provisions of securitization pursuant to section 1H of chapter 164 if such tax agreement has not been executed pursuant to the provisions of this subsection. Such payments in addition to and in lieu of taxes, whether determined by the provisions of this subsection or by negotiation or by arbitration, shall be included in the tax levy and the attributed valuation related to such payments in addition to and in lieu of taxes, which shall be calculated by dividing the payments in addition to taxes by the current tax rate expressed as a decimal, and shall be included in the total assessed valuation for the purposes of determining the levy ceiling and levy limit under said section 21C and in determining the minimum residential factor and classification of property under section 1A of chapter 58 and section 56 of chapter 40. The department of revenue may issue guidelines for implementing the provisions of this subsection consistent with preserving the payment in addition to and in lieu of taxes in the local tax base for such purpose.

SECTION 116. Section 1 of chapter 60A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 33, the words "motor vehicles or".

SECTION 117. Said section 1 of said chapter 60A, as so appearing, is hereby further amended by striking out, in line 39, the words ", farmer or dealer" and inserting in place thereof the following words:- or farmer.

SECTION 118. Said section 1 of said chapter 60A, as so appearing, is hereby further amended by striking out, in lines 53 and 55, the words "or dealer".

SECTION 119. Said section 1 of said chapter 60A, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

A motor vehicle dealer to whom a general distinguishing number or mark has been issued shall, for the privilege of such registration, pay to the collector of taxes for the city or town in which such dealership is licensed, a special excise in the amount of \$100.00 for each registration plate issued by the registrar of motor vehicles under such general distinguishing number or mark. Such motor vehicle dealer shall otherwise be exempt from the excise imposed by this section on any motor vehicle owned by such motor vehicle dealer, which motor vehicle may be operated by such dealer, the spouse of such dealer, a co-owner of such

Chap. 194

dealer or dealership entity, the spouse of such co-owner or an employee of such dealer whose duties involve the sale of motor vehicles at any time for any purpose, including personal use, provided that such employee renders at least 20 hours of service each week to such dealer and provided that such co-owner holds at least 40 per cent proprietary interest in such motor vehicle dealer or any such dealership entity; provided, however, that a motor vehicle which is operated under such general or distinguishing mark or number shall, at all times, display all notices and stickers required by applicable law to be eligible for sale.

SECTION 120. Section 1 of chapter 61B of the General Laws, as so appearing, is hereby amended by inserting after the word "golfing", in line 15, the following words:- , non-commercial youth soccer.

SECTION 121. The second paragraph of paragraph (m) of section 1 of chapter 62 of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The term "capital gain income" shall mean gain from the sale or exchange of a capital asset.

SECTION 122. Section 2 of chapter 62E of the General Laws, as amended by chapter 64 of the acts of 1998, is hereby further amended by inserting after the sixth sentence, the following sentence:- Upon making the first payment under an annuity contract or policy or under a disability income policy or upon making the first payment of dividends under a life insurance policy, an insurance company making such payment shall, in addition, notify the department of revenue of such payment.

SECTION 123. Section 9 of said chapter 62E, as appearing in section 48 of said chapter 64, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Section 9. An employer or payor of income required to submit a report pursuant to this chapter who fails, without reasonable cause, to comply with such reporting requirements shall be liable for a penalty assessed by the department in the following amount for each employee, contractor or other recipient of periodic income with respect to whom such employer or payor of income is required to file a report but who is also not included in such report or for whom the required information is not accurately reported for each employee, contractor or other recipient of periodic income required to be included:- up to \$25 for each employee, contractor or other recipient of periodic income or, if the result of a conspiracy between the employer and the employee, or contractor or other recipient of periodic income not to supply the required report or to supply a false or incomplete report, \$500 for each such employee, contractor or other recipient of periodic income.

SECTION 124. Section 1H of chapter 69 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by adding the following paragraph:-

The board of education shall grant certification to teachers of adult education who possess such qualifications as prescribed by said board. The commissioner of education shall have authority to grant, upon application, adult education certificates which shall be valid for five years to teachers of adult education who possess qualifications prescribed by said board.

Chap. 194

Each education certificate shall be renewable every five years thereafter upon successful completion of an individual professional development plan that meets standards established by said board. Said board shall establish policies and guidelines for approval for fulfilling the professional development requirement. Nothing herein shall be construed to require certification of teachers of adult education. A certificate issued by the commissioner may be revoked for cause pursuant to standards and procedures established by said board. Said board shall have the authority to promulgate, amend and rescind such rules or regulations as may be necessary to carry out the provisions of this section.

SECTION 125. Section 2 of chapter 70 of the General Laws, as so appearing, is hereby amended by inserting after the word "enrollment", in line 221, the following words:- , including students enrolled in the program for the elimination of racial imbalance.

SECTION 126. Section 6 of said chapter 70, as so appearing, is hereby amended by adding the following paragraph:-

Beginning after June 30, 1998, no regional vocational school district shall have a required net school spending amount that exceeds 150 per cent of its foundation budget. If the required net school spending exceeds 150 per cent of foundation, then the minimum contribution, or contributions in the case of a regional school district, shall be reduced so that the required net school spending is not more than 150 per cent of foundation. In a regional school district, such reduction shall be done in proportion to the members' enrollment share. If a community that receives a reduced minimum contribution to one of its school districts pursuant to this section belongs to any other district that is below foundation, such community's minimum contribution to the below foundation district shall be increased up to the amount of the decrease authorized by this section or the foundation budget, whichever is less.

SECTION 127. Section 38G of chapter 71 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

The requirements of this section shall not apply to the certification of teachers of adult education. Nothing in this section or section 1H of chapter 69 shall be construed to prohibit a school committee from employing a teacher certified under this section to teach adult education.

SECTION 128. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by inserting after the word "code;" in line 26, the following words:- ; and provided further, that no child shall be determined to be a student with special needs solely because such student shall have failed the statewide assessment tests authorized pursuant to section II of chapter 69.

SECTION 129. Section 3 of said chapter 71B, as so appearing, is hereby amended by inserting after the word "courts", in line 46, the following words:- ; provided, however, that school districts shall not be required to refer a child for an evaluation solely because such child failed the statewide assessment tests authorized pursuant to section II of chapter 69.

SECTION 130. The second paragraph of section 5 of said chapter 71B of the General Laws, as most recently amended by chapter 43 of the acts of 1997, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of section 27C of chapter 29 or any other general or special law to the contrary, if a child with a disability for whom a school committee currently provides or arranges for the provision of special education in an approved private day or residential school placement, including placement in a pediatric nursing home pursuant to the provisions of section 3, or his parent or guardian moves to a different school district on or after July 1 of any fiscal year, such school committee of the former community of residence shall pay the approved budgeted costs, including necessary transportation costs, of such day or residential placement, including placement in a pediatric nursing home, of such child for the balance of such fiscal year; provided, however, that if such move occurs between April 1 and June 30, such school committee of the former community of residence shall pay such costs for the balance of the fiscal year in which the move occurred as well as for the subsequent fiscal year.

SECTION 131. Chapter 75 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 14C the following section:-

Section 14D. There shall be within the University of Massachusetts a University of Massachusetts Extension Board of Public Overseers for the purpose of advising and assisting the chancellor of the University of Massachusetts at Amherst in the mission, budget, operation and management of University of Massachusetts Extension programs. Nothing in this section shall directly affect the employment status of personnel.

The board shall consist of a designee of the president of the university, a designee of the chancellor of the University of Massachusetts at Amherst, the commissioner of food and agriculture or his designee and the following persons to be appointed by the governor: four members of the Massachusetts Farm Bureau Federation, Inc. chosen from a list of 12 members submitted by said federation; one member of the Massachusetts 4-H Foundation, Inc. chosen from a list of three members submitted by said organization; one member of the State 4-H advisory committee chosen from a list of three members submitted by said committee; one member of the Massachusetts Forestry Association chosen from a list of three members submitted by said association; one member of the Massachusetts Audubon Society chosen from a list of three members submitted by said society; two members of the Massachusetts Arborists Association chosen from a list of five members submitted by said association and one member of the Massachusetts Nutrition Board chosen from a list of three members submitted by said board. The chancellor of the University of Massachusetts at Amherst shall appoint the chairperson from among the membership of the board. Members of the board shall serve without compensation but shall be reimbursed, subject to appropriation, out of any funds available for the purpose, for necessary expenses incurred in the performance of their official duties.

The appointed members of the board shall serve for terms of five years, except for

persons appointed to fill vacancies, who shall serve for the unexpired term. The board shall hold an annual meeting in January and at least three other times during the year. The University of Massachusetts Extension director shall attend all meetings of the board and shall serve as secretary but shall have no vote in its deliberation. Eight members of the board shall constitute a quorum. The board may, by vote of its members then in office, adopt a policy for the conduct of business, including constitution of board membership. Policies may be amended or repealed by a two-thirds vote of its members.

The director shall prepare an annual budget for board consideration. Such budget shall be adopted by the board and approved by the chancellor of the University of Massachusetts at Amherst. The director shall annually render a complete and detailed report of the activities, outcomes, revenue and expenditures to the board.

The university on behalf of the board may receive, manage and disburse grants and donations from governmental agencies, other colleges and universities, corporations, foundations, associations and individuals for the purpose of funding the University of Massachusetts Extension and agricultural research programs. Further, the university on behalf of the board may establish and administer trust funds to support such programs.

SECTION 132. Section 38 of said chapter 75, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 2, the words "for Waste Prevention Institute" and inserting in place thereof the following words:- Institute, hereinafter referred to as "NETI".

SECTION 133. Section 19C of chapter 78 of the General Laws is hereby amended by striking out clause (2), as so appearing, and inserting in place thereof the following clause:-

(2) Said board shall also designate libraries in each area to serve as a regional reference center or centers to meet the reference and research library needs of the residents of all the cities and towns in each such area; provided, however, that the amount allocated for such reference and research service shall be applied only to the costs of reference and research books, periodicals and other library materials and the personnel employed in such reference and research service in accordance with a regional plan of service. Minimum standards for reference and research centers shall be developed by the board of library commissioners in consultation with the regional library systems.

SECTION 134. Said chapter 78 is hereby further amended by striking out section 19D, as amended by section 77 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

Section 19D. For each regional library system, the board shall establish a council of members which shall consist of the chief librarian or one trustee to be so designated by the board of trustees or other appropriate administrative authority of each participating library and one designated representative from participating libraries within each public school district and one representative from the participant private school libraries within each school district. The duties and responsibilities of the council of members shall be specified in the bylaws of the regional library systems as approved by the board of library commissioners.

SECTION 135. Section 19E of said chapter 78, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The board of library commissioners, hereinafter called the board, shall, subject to appropriation, establish a comprehensive statewide program for the improvement and development of library services for all citizens. Such funds as may be appropriated shall be distributed by the board for the following purposes:

- (1) for the establishment of the Boston public library as a statewide reference and referral center for Massachusetts libraries;
- (2) for the establishment and development of cooperation and coordination among libraries, including the authority to:
 - (a) provide coordination and administration of cooperative statewide programs of services and statewide coordination of regional programs;
 - (b) provide for identification, maintenance, development and preservation of critical research collections;
 - (c) provide statewide access to specialized information resources, research collections and specialized reference and information services;
 - (d) participate in interstate library services if such participation will increase the availability of library services;
 - (e) provide statewide delivery services;
 - (f) provide statewide interlibrary loan services;
 - (g) provide education, training and technical advisory services; and
 - (h) provide funding for grants for projects that demonstrate innovative uses of technology, interlibrary cooperation or shared services delivery to improve information delivery to library users.

SECTION 135A. The second paragraph of said section 19E of said chapter 78, as so appearing, is hereby amended by striking out the introductory paragraph,- and by striking out clauses (1) and (2).

SECTION 136. Section 19I of chapter 78 of the General Laws, as so appearing, is hereby amended by striking out, in lines 12 and 13, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 137. Subsection (a) of section 28 of chapter 81A of the General Laws is hereby amended by striking out the first sentence, as amended by section 26 of chapter 11 of the acts of 1997, and inserting in place thereof the following sentence:- There shall be a metropolitan highway system advisory board to the authority to consist of nine persons, one of whom shall be appointed by the governor, one of whom shall be appointed by the commissioner of capital asset management and maintenance, one of whom shall be appointed by the mayor of the city of Boston, one of whom shall be appointed by the artery business committee, two of whom shall be appointed by the metropolitan area planning council, one of whom shall be appointed by the Massachusetts Municipal Association, one of whom shall be appointed by Move Massachusetts 2000 and one of whom shall be appointed by the Massachusetts Sierra Club.

SECTION 138. The first sentence of paragraph (a) of section 30 of said chapter 81A, as appearing in section 6 of chapter 3 of the acts of 1997, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be a turnpike advisory board to the authority to consist of nine members, two of whom shall be appointed by the governor and who shall be residents of a municipality in the turnpike corridor, one of whom shall be appointed by the commissioner of the division of capital asset management and maintenance, one of whom shall be appointed by the Massachusetts Audubon Society who shall be a resident of a municipality within the turnpike corridor, one of whom shall be appointed by the Massachusetts Association of Planning Directors who shall be a resident of a municipality within the turnpike corridor, four of whom shall be appointed by the Massachusetts Municipal Association, one of which shall be a resident of a municipality within the turnpike corridor from the New York state border east to the junction of interchange 5, one of which shall be a resident of a municipality within the turnpike corridor from the junction of interchange 5 west to the junction of interchange 11A and one of which shall be resident of a municipality within the turnpike corridor from the junction of interchange 11A east to the junction of interchange 14.

SECTION 139. The third paragraph of section 40 of chapter 82 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- In providing the designations required by this section, the company shall not utilize personnel other than the company's own permanent employees who have been trained to perform such work.

SECTION 140. The eighth paragraph of section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following two sentences:- Within 30 days after receipt of such fee, the portion of the fee remaining after the deduction of costs directly attributable to issuing such plate shall be transferred, in amounts proportional to the number of vehicles registered in each county, to the county commissioners of Dukes and Nantucket counties and, in the case of Barnstable county, 40 per cent to the Barnstable county commissioners, 40 per cent to the Cape Cod Economic Development Council, Inc. or its successor and 20 per cent to the Lower Cape Community Development Corporation; provided, however, that all amounts so transferred shall be used to promote tourism and economic development; provided, further, that twice annually the Lower Cape Community Development Corporation shall furnish to the Barnstable county commissioners a full accounting of the expenditures of such funds; and provided further, that the Cape Cod Economic Development Council, Inc. or its successor shall report twice annually to the department of economic development on the nature of all activities taken within the preceding six months and anticipated activities in the subsequent six months including, but not limited to, a list of all programs offered and attendance at such programs, a description of any travel and tourism initiatives and any other documents or information requested by said department and shall file annually with said department and the state auditor a certified financial audit which shall be so certified by a certified public accountant. The department of economic development may suspend, by written notice to the

Chap. 194

registrar, the transfer of funds to the Cape Cod Economic Development Council, Inc. or its successor upon a determination by said department that said Council has incurred questionable costs or has engaged in an inappropriate use of funds, until such time as the matters are resolved to the satisfaction of said department.

SECTION 141. Section 8B of said chapter 90, as so appearing, is hereby amended by striking out, in line 27, the words "fifteen of chapter twenty-two" and inserting in place thereof the following words:- 35G of chapter 10.

SECTION 142. Section 20 of said chapter 90, as amended by section 12 of chapter 210 of the acts of 1997, is hereby further amended by inserting after the third paragraph the following paragraph:-

There shall be a surcharge of \$25 on a fine assessed as a result of a violation of the provisions of section 17 or a violation of a special regulation made under the authority of section 18; provided, however, that 100 per cent of the monies collected pursuant to such surcharge shall be transferred by the registrar to the state treasurer for deposit into the Head Injury Treatment Services Trust Fund established pursuant to the provisions of section 59 of chapter 10.

SECTION 143. Section 34½ of said chapter 90, as appearing in the 1996 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following two subsections:-

(d) The department shall similarly report quarterly for the Central Artery/Third Harbor Tunnel project, so-called, the total value of all contracts advertised to date in the calendar year, the value of all contracts awarded to date in the calendar year, and the total funds expended on said contracts.

(e) The department of highways shall submit semi- annually reports to the house and senate committees on ways and means and the joint committee on transportation detailing the total expenditures made for the purposes of the statewide road and bridge program, so-called. Such reports shall be filed on June 1 and December 1 and shall include, but not be limited to, the following information: (a) the name and location of each project to be completed under the auspices of said program; (b) the date such project was first advertised; (c) the date upon which the construction contract was awarded for each such project and the total contract amount; (d) the contractors who shall be responsible for the completion of each such project; (e) the amount expended for each such project, if any, or the amount which is planned to be expended for each such project; (f) a schedule detailing when construction began or is scheduled to begin for each such project; and (g) a schedule detailing when construction is scheduled to be completed on each such project.

SECTION 144. Section 9 of chapter 92B of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 145. Section 325 of chapter 94 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 and 9, the word "twelve" and inserting in place thereof, in each instance, the following word:- eight.

Chap. 194

SECTION 146. Section 32J of chapter 94C of the General Laws, as so appearing, is hereby amended by inserting after the word "private", in line 4, the following words:- accredited preschool, accredited headstart facility.

SECTION 147. Section 47 of said chapter 94C, as so appearing, is hereby amended by striking out, in lines 183 and 184, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 148. Chapter 101 of the General Laws is hereby amended by striking out section 17, as so appearing, and inserting in place thereof the following section:-

Section 17. Hawkers and peddlers may sell without a license newspapers, religious publications, ice, flowering plants and such flowers, fruits, nuts and berries as may be wild or uncultivated. The aldermen or selectmen, may by regulations not inconsistent with this chapter, regulate the sale or barter and the carrying for sale or barter or exposing therefor by hawkers and peddlers of such articles without the payment of a fee may, in like manner require hawkers and peddlers, whether adults or minors, to be licensed except as otherwise provided and may promulgate regulations governing the same provided, however, that the license fee shall not exceed that prescribed by section 22. Such regulations may, in like manner, affix penalties for violations of such regulations not to exceed the sum of \$20 for each such violation. A hawker and peddler licensed under this section shall not be required to be licensed under said section 22.

SECTION 149. Said chapter 101 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:-

Section 22. The director may grant a license to go about carrying for sale or barter, exposing therefor and selling or bartering any goods, wares or merchandise, the sale of which is not prohibited by section 16, to a person who is or has declared an intention to become a citizen of the United States and who files with the director a completely executed application to be furnished by the director and on which shall be a certificate which shall be signed by the chief of police of the city or town in which the applicant resides which shall state that to the best of his knowledge and belief the applicant therein named is of good repute as to morals and integrity. The director may grant, as aforesaid, special licenses upon payment by the applicant to the director of a fee, as determined annually by the commissioner of administration under the provision of section 3B of chapter 7 and the licensee may go about carrying for sale or barter, exposing therefor and selling or bartering in any city or town any meats, butter, cheese, fish, fruits, vegetables or other goods, wares or merchandise, the sale of which is not prohibited by statute. A hawker or peddler licensed under this section shall not be required to be licensed under section 17. A hawker or peddler licensed under this section shall be subject to such local rules and regulations as may be made in a city by the mayor and city council and in a town by the board of selectmen.

SECTION 150. Section 26 of said chapter 101, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:- The director shall keep a record of all licenses to hawkers and peddlers granted

Chap. 194

by him, including the number of each such license and the name and residence of the licensee. All such records shall be open to public inspection.

SECTION 151. Section 70E of chapter 111 of the General Laws, as so appearing, is hereby amended by inserting after the word "resident", in line 169, the following words:-
; provided, however, that for the purposes of this paragraph, the word facility shall not include a community day and residential setting licensed or operated by the department of mental retardation.

SECTION 152. Section 127B½ of said chapter 111, as so appearing, is hereby amended by adding the following paragraph:-

Notwithstanding any provision of chapter 183A to the contrary, the organization of unit owners of a condominium may petition the board of health in a city or town to enter into a betterment agreement pursuant to this section to finance the repair, replacement or upgrade of a septic system serving a unit, one or more of which is used for human habitation provided that such system comprises part of the common areas and facilities. Such agreement shall: (i) be approved by a majority of the unit owners benefited by the repair, replacement or upgrade of the septic system or any combination of such septic system improvements; (ii) include an identification of the units and unit owners subject to the agreement and the percentages, as set forth in the master deed, of the undivided interests of the respective units in the common area and facilities; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the city or town, such certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of such agreement shall be recorded as a betterment in the registry of deeds or registry district of the land court where the master deed is recorded and shall be otherwise subject to the provisions of chapter 80 as provided for in this section. The assessment under such agreement may be charged or assessed to the organization of units owners but shall not constitute an assessment of common expenses. Instead, the allocable share of the assessment, prorated on the basis of the percentage interests of the benefited units in the common areas and facilities, shall attach as a lien only to the units identified in the recorded notice and benefited by the repair, replacement or upgrade of the septic system or any combination of such septic system improvements and the owners of such units shall also be personally liable for their allocable share of the assessment as provided for in this section. Words defined in section 1 of said chapter 183A and used in this paragraph have the same meanings as appearing in said chapter 183A.

SECTION 153. Section 142M of chapter 111 of the General Laws, as so appearing, is hereby amended by striking out, in line 163, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 154. Section 4 of chapter 111H of the General Laws, as so appearing, is hereby amended by striking out, in line 50, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 155. Section 9 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 28 and 29, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 156. Section 20 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 65 and 66 and in lines 118 and 119, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 157. Section 22 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 32 and 33 and in line 42, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 158. Said section 22 of said chapter 111H, as so appearing, is hereby amended by striking out, in line 3, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 159. Section 23 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 46 and 47, and in lines 87 and 88, the words "deputy commissioner of capital planning and operations" and inserting in place thereof, in each instance, the following words:- commissioner of capital asset management and maintenance.

SECTION 160. Section 27 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 161. Section 28 of said chapter 111H, as so appearing, is hereby amended by striking out, in line 13 and 14, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 162. Section 33 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 163. Section 37 of said chapter 111H, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words "deputy commissioner of capital planning and operations" and inserting in place thereof the following words:- commissioner of capital asset management and maintenance.

SECTION 164. Section 87C of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "and PA, but no other designation in connection with the practice of public accountancy" and inserting in place thereof the following words:- "PA", "certified public accountants" and "CPA".

SECTION 165. Said section 87C of said chapter 112, as so appearing, is hereby further amended by striking out, in line 18, the words "abbreviation PA", in line 18, and inserting in place thereof the following words:- abbreviations PA and CPA.

SECTION 166. Section 6A of chapter 115 of the General Laws is hereby amended by striking out, in lines 4 and 5, as so appearing, the words "who was a resident of this commonwealth at the time of his entry into such service".

SECTION 167. Said section 6A of said chapter 115 is hereby further amended by striking out, in line 7, as so appearing, the words "has continued to be" and inserting in place thereof the following word:- is.

SECTION 168. Section 7 of chapter 115 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 10, the word "thirty" and inserting in place thereof the following figure:- 60.

SECTION 169. Said chapter 115 is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Amounts expended by the burial agent under the provisions of section 7 shall not exceed \$2,000 for the funeral and burial of a person under this chapter, provided that the cost of funeral and burial does not exceed \$3,000 and there are insufficient resources in the estate of such person to pay for the cost of such funeral and burial. Any resources of such person shall be deducted from the maximum cost of the funeral and burial allowance hereunder and the difference, subject to the limitation set forth in this paragraph, shall be paid by the burial agent. No city or town shall be reimbursed under this section for any amount so expended for a single burial if the total expense of such burial, exclusive of the purchase price of the grave, the cost of the grave opening and the cost of a cement vault liner if one is required by the cemetery regulations, by whomsoever incurred, exceeded \$500 for a child under the age of seven or \$900 for any other person. The burial shall not be made in a cemetery or burial ground used exclusively for the burial of persons under the provisions of chapter 117 or in any part of a cemetery or burial ground so used. Relatives of the deceased who are unable to bear the expense of burial may be allowed to conduct the funeral. The full amount so expended, the name of the deceased and, if the deceased was a veteran, the regiment, company, station, organization or vessel in which such veteran served, the date of death, place of interment and, if the deceased was a spouse or widow or widower, the name of such veteran's spouse and date of marriage and, if the deceased was a dependent child, the name of the veteran and such other details as the commissioner may require, shall be certified on oath to said commissioner in such manner as said commissioner may approve, by the burial agent and the treasurer of the city or town expending the amount, within three months after the burial. The commissioner shall endorse upon the certificate the allowance of such amounts as have been paid and reported according to the foregoing provisions and shall transmit the certificate to the comptroller. Seventy-five per cent of the amounts so paid and allowed for burial expenses of veterans or dependents by the cities and towns wherein they reside shall be paid by the commonwealth to the several cities and towns on or before

Chap. 194

November 10 in the year after the expenditures have been made. Notwithstanding the requirements as to residence as set forth in section 5, the commissioner may authorize the burial agent of a city or town to arrange for the proper interment of the body of an indigent veteran who dies within the commonwealth.

SECTION 170. Section 9 of said chapter 115, as so appearing, is hereby amended by inserting after the fifth sentence the following sentence:- Upon the approval of the commissioner, compensation for 75 per cent of the cost of such flags, but none of the expenses attending the placement of such flags shall be paid by the commonwealth to the several cities and towns on or before November 10 in the year after such expenditures.

SECTION 171. Chapter 118E of the General Laws is hereby amended by inserting after section 16A the following section:-

Section 16A½. The commissioner shall notify the house and senate committees on ways and means and the secretary of administration and finance whenever costs incurred for any program of medical care authorized by sections 9A, 16 and 16A are projected to exceed available appropriations for the current fiscal year or for costs authorized for expenditure for prior fiscal years. Such notice shall be filed within five business days of the commissioner's determination of such projection. Any such notice shall be accompanied by the following information: (a) an explanation of the reasons for any such deficiency or insufficient authorization for prior year expenditures; (b) revised total expenditure projections for any such items of appropriation that shall update the budget neutrality plan required pursuant to section 9B; (c) revised member month caseload assumptions for any such program of medical care that is projected to incur such a deficiency; (d) revised per member per month cost assumptions for any such program of medical care that is projected to incur such a deficiency; and (e) a description of all cost control measures, including quantification of the savings therefrom, that the division would propose to implement to prevent or ameliorate any such deficiency.

SECTION 172. The fourth paragraph of section 16B of said chapter 118E, as so appearing, is hereby amended by inserting after the first sentence the following sentence:-

For the purposes of determining the income eligibility of a married applicant, said division or its designees shall verify eligibility based on joint or individual income, at the applicant's option.

SECTION 173. Subsection (4) of section 16C of said chapter 118E, as appearing in section 26 of chapter 170 of the acts of 1997, is hereby amended by striking out the second sentence and inserting in place thereof the following four sentences:- The division shall require the payment of premiums by households eligible for said program whose household income as determined by said division exceeds 150 per cent of the federal poverty level. Such premiums for eligible persons under the age of 19 shall not exceed \$10 per month for each such person; provided, however, that no household shall be required to pay more than \$30 per month. Such premiums shall be deposited in the Children's and Seniors' Health Care Assistance Fund established pursuant to the provisions of section 2FF of chapter 29. The

Chap. 194

failure to pay premiums for more than two consecutive months shall constitute grounds for terminating a household's eligibility to participate in said program of benefits; provided, however, that the commissioner of medical assistance may allow continued participation in said program despite such nonpayment of premiums or otherwise waive the payment of any or all premiums for any particular household in the event that such payment of premiums constitutes an extreme financial hardship for such household.

SECTION 174. Said chapter 118E is hereby further amended by inserting after section 16C, inserted by said section 26 of said chapter 170, the following section:-

Section 16D. (1) Eligibility for benefits for aliens pursuant to this chapter shall be determined without regard to the availability of federal funding for such benefits or to the provisions of sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) A person who is not a citizen of the United States but who is either a qualified alien within the meaning of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 or is otherwise permanently residing in the United States under color of law may receive different benefits which shall be not less than the same benefits provided on July 1, 1997 to the eligibility group described in clause (g) of subsection (2) of section 9A, unless such person: (i) is residing in a nursing facility, as defined by 42 U.S.C. section 1396, as of June 30, 1997; (ii) was receiving services or benefits pursuant to this chapter as of June 30, 1997; (iii) had an application for long-term care services pending on July 1, 1997; or (iv) is eligible for federally reimbursed services or benefits; provided, however, that services or benefits other than emergency services shall not be provided to undocumented aliens unless required by federal law.

SECTION 175. Section 36 of said chapter 118E, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 12 and 13, the words "participation in the programs as a skilled nursing or acute or non-acute hospital shall be limited to providers who:".

SECTION 176. Section 55B of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words "section fifty-seven of chapter one hundred and nineteen" and inserting in place thereof the following words:- section 57; provided, however, that a complaint alleging a child to be a delinquent child by reason of having violated the provisions of section 13B, section 22A or section 23 of chapter 265 shall not be placed on file or continued without a finding.

SECTION 177. Section 58 of said chapter 119, as so appearing, is hereby amended by inserting after the word "birthday", in line 10, the following words:- ; provided further, that a complaint alleging a child to be a delinquent child by reason of having violated the provisions of section 13B, section 22A or section 23 of chapter 265 shall not be placed on file or continued without a finding.

SECTION 178. The first paragraph of section 32 of chapter 121B of the General Laws, as so appearing, is hereby amended by striking out the third sentence and inserting in

Chap. 194

place thereof the following sentence:- To this end, an authority shall fix the rentals for dwelling units in its projects so that no tenant shall be required to pay a rental of more than 30 per cent of his income if heat, cooking fuel and electricity are provided by the authority or 25 per cent of his income if such utilities are not so provided; provided, however, that in calculating the amount of such rental, an authority may round the amount of such rental payment to the nearest whole dollar.

SECTION 179. Said section 32 of said chapter 121B, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

In calculating a household's income for purposes of computing the rent due under the previous paragraph and for purposes of determining continued eligibility, a housing authority shall provide an income exclusion of not more than the amount earned for employment of 20 hours per week at the minimum wage, as determined by section 1 of chapter 151, for a person 62 years of age or older.

SECTION 180. Paragraph (d) of section 38B of chapter 128 of the General Laws, as appearing in section 27 of chapter 11 of the acts of 1997, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The division of capital asset management and maintenance is hereby authorized to expend such funds as may be necessary to facilitate the upkeep, maintenance and repairs of the Massachusetts state exposition building and the land thereon as more fully described herein.

SECTION 181. Chapter 128C of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after section 7 the following two sections:-

Section 7A. There is hereby established a trust fund to be known as the Greyhound Humane Disposition and Adoption Trust Fund, under the direction and supervision of the commissioner of the department of food and agriculture or his designee as trustee of said trust.

Said trustee may expend, subject to appropriation, amounts deposited in said fund for the cost of adoption or the humane disposition of greyhounds bred for racing that never qualify for pari-mutuel races, or of racing greyhounds that have reached the end of their racing career.

Said trustee may prescribe terms and conditions for such expenditures provided that no such expenditure shall be authorized by the trustee pursuant to a contract with a person, corporation, partnership, trust or any combination of the same or any other entity which owns, operates, holds any interest in any racetrack or other facility which operates pari-mutuel racing of greyhounds, or is licensed to operate such a facility pursuant to section 3 of chapter 128A.

Said trustee shall require such documents as the trustee may deem necessary to verify that expenditures from the trust were carried out in accordance with the provisions of this section.

Section 7B. The state racing commission shall collect from each person, partnership or corporation licensed to conduct a dog racing meeting pursuant to section 3 of chapter

Chap. 194

128A a fee based upon such licensee's proportion of the total aggregate handle wagered on live greyhound racing in the commonwealth in the previous calendar year. All such fees so collected shall be deposited into the Greyhound Humane Disposition and Adoption Trust Fund; provided, however, that the annual aggregate amount of such fees shall total \$150,000.

SECTION 182. Section 44A of chapter 149 of the General Laws is hereby amended by striking out, in line 7, as appearing in the 1996 Official Edition, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 183. Section 44D of said chapter 149, as so appearing, is hereby amended by striking out, in lines 30, 58, 77, 81, 115, 119, and 140, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 184. Section 44E of said chapter 149, as so appearing, is hereby amended by striking out, in line 141, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 185. Section 44J of said chapter 149, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 186. Section 7 of chapter 150E of the General Laws, as so appearing, is hereby amended by inserting after the word "Massachusetts", in line 8, the following words:- , a county sheriff.

SECTION 187. Said section 7 of said chapter 150E, as so appearing, is hereby further amended by inserting, after the word "Massachusetts", in line 22, the following words:- , a county sheriff.

SECTION 188. Section 14I of chapter 151A of the General Laws is hereby repealed.

SECTION 189. Paragraph (a) of section 14L of chapter 151A of the General Laws is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Each employer liable to pay a contribution under subsection (i) of section 14 shall also pay, in the same manner and at the same times as the commissioner prescribes for the contribution required by said section 14, a workforce training contribution of 0.075 per cent of so much of its wages as are subject to contributions pursuant to clause (4) of subsection (a) of said section 14.

SECTION 190. Chapter 152 of the General Laws is hereby amended by adding the following section:-

Section 87. The board of higher education and the public institutions of higher education may procure insurance for the payment of workers' compensation costs incurred pursuant to this chapter, in accordance with a transition plan established jointly by the board of higher education, the institutions and the workers' compensation unit of the human resources division.

Chap. 194

SECTION 191. The first sentence of subsection (b) of section 1E of chapter 164 of the General Laws, as appearing in section 193 of chapter 164 of the acts of 1997, is hereby amended by striking out the words "after the effective date of this act".

SECTION 192. Subsection (c) of section 47C of chapter 164 of the General Laws, as appearing in section 197 of chapter 164 of the acts of 1997, is hereby amended by striking out the words "; provided, however, that no such cooperative organized pursuant to this section shall be associated or create a partnership with the corporation established pursuant to chapter 775 of the acts of 1975; and provided, further, that said corporation established pursuant to said chapter 775 shall not be allowed to participate in any activity or have an ownership share in any cooperative formed pursuant to this section".

SECTION 193. The first sentence of section 24D of chapter 175, as appearing in section 186 of chapter 64 of the acts of 1998, is hereby amended by inserting after the words "Prior to making any" the following word:- nonrecurring.

SECTION 194. Section 113B of chapter 175 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in lines 111 and 112, the words "fifteen of chapter twenty-two" and inserting in place thereof the following words:- 35G of chapter 10.

SECTION 195. Section 4 of chapter 176M of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(5) Nothing herein shall preclude a carrier from directly subsidizing the premium rate established pursuant to this section charged to eligible individuals who meet eligibility criteria established by the carrier, including individual or household income and asset tests, to assess economic need.

SECTION 196. Chapter 183A of the General Laws is hereby amended by striking out section 14, as so appearing, and inserting in place thereof the following section:-

Section 14. Each unit and its interest in the common areas and facilities shall be considered an individual parcel of real estate for the assessment and collection of real estate taxes but the common areas and facilities, the building and the condominium shall not be deemed to be a taxable parcel. Except as provided in section 127B½ of chapter 111, betterment assessments or portions thereof, annual sewer use charges, water rates and charges and all other assessments, or portions thereof, rates and charges of every nature due to a city, town or district with respect to the condominium or any part thereof, other than real estate taxes, may be charged or assessed to the organization of unit owners; provided, however, that any lien of the city, town or district provided by law therefor shall attach to the units in proportion to the percentages, set forth in the master deed on record, of the undivided interests of the respective units in the common areas and facilities.

SECTION 197. The fourth paragraph of section 4 of chapter 185C of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The northeastern division of the housing court depart-

Chap. 194

ment shall hold its sittings in the courthouse facilities located in the city of Lawrence and at regular and frequent intervals at the courthouse facilities in the city of Salem, including at least one sitting each week in said city of Salem, including one sitting each week in the city of Lynn, including one sitting each week in the city of Lowell, and also at least one sitting each week in the courthouse facilities in either the city of Peabody or the city of Haverhill.

SECTION 198. Section 8 of said chapter 185C, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be two justices appointed for the Hampden county division, two justices appointed for the Worcester county division, one justice appointed for the northeastern division, one justice appointed for the southeastern division, two justices appointed for the city of Boston division of the housing court department and one justice who shall be and perform the duties of a circuit justice in such counties as the chief justice shall from time to time designate.

SECTION 199. Section 5 of chapter 201 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- The court may revoke the appointment of a guardian if the party petitioning for revocation proves a substantial and material change of circumstances and if the revocation is in the child's best interest.

SECTION 200. Section 22 of chapter 211 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$122,771 and each associate justice shall receive a salary of \$118,503 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by each of them in the discharge of his duties.

SECTION 201. Said section 22 of said chapter 211 is hereby further amended by striking out the first sentence, as amended by section 200, and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$127,682 and each associate justice shall receive a salary of \$123,243 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by them in the discharge of their duties.

SECTION 202. Said section 22 of said chapter 211 is hereby further amended by striking out the first sentence, as amended by section 201, and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$131,512 and each associate justice shall receive a salary of \$126,943 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by each of them in the discharge of his duties.

SECTION 203. Section 2 of chapter 211A of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$113,938 and each associate justice shall receive a salary of \$109,659 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by each of them in the discharge of his duties.

SECTION 204. Said section 2 of said chapter 211A is hereby further amended by striking out the first sentence, as amended by section 203, and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$118,496 and each associate justice shall receive a salary of \$114,045 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by each of them in the discharge of his duties.

SECTION 205. Said section 2 of said chapter 211A is hereby further amended by striking out the first sentence, as amended by section 204, and inserting in place thereof the following sentence:- The chief justice shall receive a salary of \$122,050 and each associate justice shall receive a salary of \$117,467 and the chief justice and each associate justice shall annually receive from the commonwealth upon the certificate of the chief justice the amount of expenses incurred by each of them in the discharge of his duties.

SECTION 206. Section 1 of chapter 211B of the General Laws, as most recently amended by section 132 of chapter 43 of the acts of 1997, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The trial court, as an administrative unit, shall consist of no more than 362 justices and special justices.

SECTION 207. Section 2 of said chapter 211B, as most recently amended by section 133 of said chapter 43, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be 80 justices appointed to the superior court department, 9 justices appointed to the housing court department, 4 justices appointed to the land court department, 49 justices appointed to the probate and family court department, 11 justices appointed to the Boston municipal court department, 37 justices appointed to the juvenile court department and 172 justices and special justices appointed to the district court department.

SECTION 208. Section 4 of chapter 211B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out the first three paragraphs and inserting in place thereof the following three paragraphs:-

The salaries of the justices of the trial court shall be paid by the commonwealth. Each associate justice shall receive a salary of \$105,281.

The chief justice of the several departments shall receive a salary of \$109,659.

The chief administrative justice shall receive a salary of \$113,938.

SECTION 209. Said section 4 of said chapter 211B is hereby further amended by striking out the first three paragraphs, as amended by section 208, and inserting in place thereof the following three paragraphs:-

The salaries of the justices of the trial court shall be paid by the commonwealth. Each associate justice shall receive a salary of \$109,492.

The chief justice of the several departments shall receive a salary of \$114,076.

The chief administrative justice shall receive a salary of \$118,496.

Chap. 194

SECTION 210. Said section 4 of said chapter 211B is hereby further amended by striking out the first three paragraphs, as amended by section 209, and inserting in place thereof the following three paragraphs:-

The salaries of the justices of the trial court shall be paid by the commonwealth. Each associate justice shall receive a salary of \$112,777.

The chief justice of the several departments shall receive a salary of \$117,499.

The chief administrative justice shall receive a salary of \$122,050.

SECTION 211. Section 9 of chapter 211B of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 47, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 212. Section 17 of said chapter 211B, as so appearing, is hereby amended by striking out, in lines 16, 41 and 42, and in line 45, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 213. Section 6 of chapter 211D of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 34, the words "private counsel division" and inserting in place thereof the following words:- private counsel division which shall include a children and family law program and a mental health unit.

SECTION 213A. Said section 6 of said chapter 211D is hereby further amended by inserting after said section 6 the following section:-

Section 6A. In carrying out its duties as prescribed in sections 5 and 6, the committee shall, subject to appropriation, utilize its attorney staff within the private counsel division. The committee shall establish a children and family law program in the counties of Essex and Hampden which shall, upon the court's appointment, provide representation to indigent persons in children and family law cases. Nothing herein shall be construed to limit the system as established in sections 5 and 6 of this chapter, whereby the court appoints certified private counsel to represent children and parents in the majority of children and family law cases.

SECTION 214. The first paragraph of section 13 of said chapter 211D, as amended by section 16 of chapter 19 of the acts of 1997, is hereby further amended by inserting after the sixth sentence the following sentence:- The chief counsel, deputy chief counsels and all legal and non-legal staff of the committee, including staff attorneys hired under subparagraphs (a) and (b) of section 6 but not including persons described in the fourth sentence of said subparagraph (b) of said section 6, shall be considered public employees for purposes of chapter 258.

SECTION 215. Section 1 of chapter 212 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by striking out, in line 3, the word "seventy-six" and inserting in place thereof the following figure:- 80.

Chap. 194

SECTION 216. Section 2 of chapter 217 of the General Laws, as so appearing, is hereby amended by inserting after the word "Suffolk", in line 3, the following words:-
, Worcester.

SECTION 217. Said section 2 of said chapter 217, as so appearing, is hereby further amended by striking out, in line 4, the words ", Worcester,".

SECTION 218. Said chapter 217 is hereby further amended by striking out section 3C, as amended by section 137 of chapter 43 of the acts of 1997, and inserting in place thereof the following section:-

Section 3C. There shall be nine associate justices of the trial court appointed for the probate and family court department who shall be and perform the duties of circuit justices in such counties as the chief justice shall from time to time designate, and when so assigned they shall receive from the commonwealth the expenses incurred by them.

SECTION 219. Said chapter 217 is hereby further amended by striking out section 23A, as amended by section 138 of said chapter 43, and inserting in place thereof the following section:-

Section 23A. In addition to the first assistant registers of probate provided for in section 23, the first justices of the respective courts of the probate and family court department for the following counties may, with the approval of the chief justice of the probate and family court appoint, and may, with the approval of said chief justice, remove assistant registers with the same powers and duties. Said appointments shall be as follows:

Barnstable, 3 assistant registers
Berkshire, 1 assistant register
Bristol, 8 assistant registers
Essex, 3 assistant registers
Hampden, 3 assistant registers
Hampshire, 1 assistant register
Middlesex, 6 assistant registers
Norfolk, 5 assistant registers
Plymouth, 5 assistant registers
Suffolk, 5 assistant registers
Worcester, 5 assistant registers.

SECTION 220. Said chapter 217 is hereby further amended by inserting after section 29F the following section:-

Section 29G. The first justice of the Bristol probate and family court may, with the approval of the chief justice of the probate court, designate three employees as deputy assistant registers with the same powers as an assistant register and may revoke any such designation at his pleasure. Said deputy assistant registers shall receive in addition to their salaries as employees, a salary of \$6,000 per annum.

SECTION 221. Said chapter 217 is hereby further amended by inserting after section 29G the following section:-

Chap. 194

Section 29H. The register of the Hampshire probate court may, with the approval of the first justice and the chief justice of the probate court, designate two employees as deputy assistant registers with the same powers as an assistant register and may revoke any such designation at his pleasure. Said deputy assistant registers shall receive a salary in an amount equal to 15 per cent of the annual salary of the Hampshire county register of probate.

SECTION 222. Said chapter 217 is hereby further amended by inserting after section 29H the following section:-

Section 29I. The first justice of the Plymouth probate court may, with the approval of the chief justice of the probate court, designate two employees as deputy assistant registers with the same powers as an assistant register and may revoke any such designation at his pleasure. Said deputy assistant registers shall receive in addition to their salaries as employees, a salary of \$6,000 per annum.

SECTION 223. Section 6 of chapter 218 of the General Laws, as appearing in the 1996 Official Edition, is hereby amended by inserting after the word "Brockton", in line 3, the following words:- , the district court of Chelsea.

SECTION 224. Said section 6 of said chapter 218 of the General Laws, as so appearing, is hereby further amended by striking out, in line 5, the word "Springfield" and inserting in place thereof the following word:- Hampshire.

SECTION 225. Said section 6 of said chapter 218 of the General Laws, as so appearing, is hereby further amended by inserting after the word "Middlesex", in line 10, the following words:- , district court of Springfield.

SECTION 226. Said section 6 of said chapter 218, as so appearing, is hereby further amended by striking out, in line 25, the words "one hundred and sixty-eight" and inserting in place thereof the following figure:- 172.

SECTION 227. SAID CHAPTER 218 IS HEREBY FURTHER AMENDED BY STRIKING OUT SECTION 10, AS MOST RECENTLY AMENDED BY SECTION 38 OF CHAPTER 88 OF THE ACTS OF 1997, AND INSERTING IN PLACE THEREOF THE FOLLOWING SECTION:-

Section 10. The clerk of a district court may, subject to the approval of the chief justice for administration and management as to compliance with personnel standards promulgated pursuant to section eight of chapter 211B, appoint one or more assistant clerks for whose official acts the clerk shall be responsible, who shall be paid by him unless salaries payable by the commonwealth are authorized in this section or in section 53. In courts having one or more assistant clerks, the clerk may designate one as the first assistant clerk. An assistant clerk with salaries payable by the commonwealth may be appointed in courts the judicial districts of which have, according to the national census last preceding, a population of 60,000 or more, and in the following districts:

district court of Greenfield
second district court of eastern Worcester
district court of southern Berkshire
district court of northern Berkshire

Chap. 194

district court of eastern Essex

district court of Franklin

district court of eastern Hampden

district court of western Hampden

district court of eastern Hampshire

district court of Marlborough

district court of Natick

first district court of eastern Worcester

second district court of southern Worcester.

Two assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Chicopee

second district court of Barnstable

third district court of Barnstable

district court of central Berkshire

municipal court of Brookline

district court of Holyoke

district court of Leominster

district court of central Middlesex

first district court of northern Middlesex

district court of western Norfolk

first district court of northern Worcester

first district court of southern Worcester

district court of western Worcester.

Three assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Peabody

fourth district court of Bristol

district court of Fitchburg

first district court of Barnstable

district court of Hampshire

second district court of eastern Middlesex

district court of Newton

district court of Southern Norfolk

third district court of Plymouth

Four assistant clerks with salaries payable by the commonwealth may be appointed in:

first district court of eastern Middlesex

municipal court of the Brighton district

East Boston district court

municipal court of the South Boston district

municipal court of the Charlestown district

fourth district court of eastern middlesex

Chap. 194

district court of northern Norfolk.

fourth district court of Plymouth

district court of Somerville

Five assistant clerks with salaries payable by the commonwealth may be appointed in:

second district court of Plymouth

district court of Newburyport

central district court of northern Essex

first district court of Essex

first district court of Bristol

district court of southern Essex

district court of Lawrence

district court of Lowell.

Six assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Chelsea

third district court of Bristol

second district court of Bristol

first district court of southern Middlesex

Seven assistant clerks with salaries payable by the commonwealth may be appointed in:

district court of Brockton

Eight assistant clerks with salaries payable by the commonwealth may be appointed in:

municipal court of the Dorchester district

district court of West Roxbury district

district court of East Norfolk.

Nine assistant clerks with salaries payable by the commonwealth may be appointed in:

central district court of Worcester

Ten assistant clerks with salaries payable by the commonwealth may be appointed in:

third district court of eastern Middlesex

municipal court of the Roxbury district court.

district court of Springfield.

One of the ten assistant clerks for the municipal court of the Roxbury district shall be appointed for juvenile sessions.

Assistant clerks who were appointed under authority of this section, who are paid by the commonwealth, and who have held said appointment for three consecutive years prior to the effective date of this act shall hold office during good behavior, but subject to applicable retirement laws, and may be removed from office under procedures authorized by section 8 of chapter 211B.

Each assistant clerk appointed prior to January 1, 1987 under the authority of this section and serving continuously in such appointment thereafter shall be entitled to 30 days vacation leave and 30 days sick leave in each calendar year. Any such assistant clerk may accumulate vacation and sick leave not used in any such year; provided, however, that the

Chap. 194

total amount of vacation days so accumulated shall not exceed 60 and the total amount of sick leave so accumulated shall not exceed 180 days; and provided, further, that no additional such days shall be accumulated on or after January 1, 1987 except in accordance with the policies and procedures established by the chief justice for administration and management pursuant to section 8 of chapter 211B. All other assistant clerks appointed under the authority of this section shall be entitled to vacation leave and sick leave in accordance with the policies and procedures established by the chief justice for administration and management pursuant to said section 8.

In the following courts, one of the assistant clerks shall be designated in charge of six-man jury sessions and shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation, by the chief justice of administration and management:

district court of Chelsea

third district court of eastern Middlesex

district court of Lowell

first district court of southern Middlesex at Framingham

district court of East Norfolk

central district court of Worcester

district court of Newburyport

district court of Springfield

second district court of Plymouth.

In the district court of western Worcester, the central district court of Worcester, the district of Lowell, the district court of East Norfolk and the third district court of eastern Middlesex, the clerk may designate one of his assistant clerks as assistant clerk in charge of the remand list; said list being for the trial of all cases transferred to said court from the superior court under the provisions of section 102C of chapter 231. The salary of said assistant clerk shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation by the chief justice for administration and management.

SECTION 228. The first paragraph of section 53 of said chapter 218, as appearing in the 1996 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In the Boston municipal court department, there shall be a clerk and 13 assistant clerks of said court for criminal business and a clerk and 13 assistant clerks of said court for civil business.

SECTION 229. Section 57 of said chapter 218, as so appearing, is hereby amended by inserting after the line "the East Boston division of the district court department", under the caption "*Suffolk county*", the following line:- the Chelsea division of the district court department;.

SECTION 230. The first paragraph of said section 57 of said chapter 218, as so appearing, is hereby amended by striking out, under the caption "*Franklin and Hampshire*

Chap. 194

Counties" the first and second subparagraphs and inserting in place thereof the following four subparagraphs:-

held at Northampton, within the same territorial limits as are prescribed for the criminal jurisdiction of the Northampton division of the district court department, as the chief justice of the juvenile court department may determine.

held at Greenfield, within the same territorial limits as are prescribed for the criminal jurisdiction of the Greenfield division of the district court department, as the chief justice of the juvenile court department may determine.

held at Orange, within the same territorial limits as are prescribed for the criminal jurisdiction of the Orange division of the district court department, as the chief justice of the juvenile court department may determine.

HELD AT WARE, WITHIN THE SAME TERRITORIAL LIMITS AS ARE PRESCRIBED FOR THE CRIMINAL JURISDICTION OF THE WARE DIVISION OF THE DISTRICT COURT DEPARTMENT, AS THE CHIEF JUSTICE OF THE JUVENILE COURT DEPARTMENT MAY DETERMINE.

SECTION 231. Section 58 of said chapter 218, as so appearing, is hereby amended by inserting after the first sentence the following sentences:- There shall be 4 associate justices of the trial court appointed for the juvenile court department who shall be and perform the duties of circuit justices in the following counties, and when so assigned, they shall receive from the commonwealth the expenses incurred by them: 2 justices in the Worcester, Franklin and Hampshire, Berkshire, and Hampden county divisions, and 2 justices in the Suffolk, Barnstable and town of Plymouth, Plymouth, Norfolk, Middlesex, Essex, and Bristol county divisions.

SECTION 232. Said section 58 of said chapter 218, as so appearing, is hereby further amended by striking out the fourth paragraph, as most recently amended by section 142 of chapter 43 of the acts of 1997, and inserting in place thereof the following paragraph:-

Each division shall have a clerk, who shall be appointed by the governor, with the advice and consent of the council and who shall hold office during good behavior, subject, however, to retirement under the provisions of any applicable general or special law relative to retirement systems. The Suffolk county division held at Boston shall have a first assistant clerk and said division shall have nine assistant clerks; the Barnstable county division held at Plymouth shall have a first assistant clerk and said division shall have two assistant clerks; the Bristol county division shall have a first assistant clerk and five assistant clerks; the Franklin and Hampshire counties division shall have an assistant clerk; the Berkshire and Hampden counties division held at North Adams shall have an assistant clerk; the Middlesex county division shall have a first assistant clerk and two assistant clerks; the Norfolk county division held at Quincy shall have an assistant clerk; the Plymouth county division shall have a first assistant clerk and two assistant clerks; and the Worcester county division shall have a first assistant clerk and two assistant clerk. Said first assistant clerks and assistant clerks shall be appointed by the clerks of said courts, with all such appointments subject to approval by the chief justice for administration and management with respect to personnel standards

Chap. 194

promulgated under section eight of chapter 211B.

SECTION 233. Chapter 221 of the General Laws is hereby amended by striking out section 5, as most recently amended by section 144 of said chapter 43, and inserting in place thereof the following section:-

Section 5. In addition to the assistant clerks provided for in section four, the clerks of the courts for the following counties may, subject to the approval of the chief justice for administration and management as to compliance with personnel standards promulgated pursuant to section 8 of chapter 211B, appoint assistant clerks with the same powers and duties. Said appointments shall be as follows:

Barnstable, 1 assistant clerk

Bristol, 9 assistant clerks

Essex, 11 assistant clerks

Hampden, 8 assistant clerks

Nantucket, 1 assistant clerk

Norfolk, 8 assistant clerks

Middlesex, 25 assistant clerks

Plymouth, 6 assistant clerks

Worcester, 11 assistant clerks

Suffolk, (a) superior court department, by the clerk of the superior court department for criminal business, 20 assistants; (b) superior court department, by the clerk of the superior court department for civil business, 21 assistants; (c) supreme judicial court, by the clerk of the supreme judicial court for said county, a second assistant clerk, designated from his office force and a third assistant clerk, designated from his office force.

SECTION 234. Section 37 of said chapter 221, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words "two hundred dollars" and inserting in place thereof, in each instance, the following figure:- \$275.

SECTION 235. Section 93 of said chapter 221, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following three sentences:-

The salary of the clerk of the supreme judicial court for the commonwealth shall be 81.57 per cent of the salary of the chief justice of the supreme judicial court and shall be paid, subject to appropriation, by the commonwealth. The salary of the first assistant clerk of said court shall be 89.25 per cent of the salary of said clerk and shall be paid, subject to appropriation, by the commonwealth. The salary of the assistant clerks of the supreme judicial court for the commonwealth shall be 78.27 per cent of the salary of said clerk and shall be paid, subject to appropriation, by the commonwealth.

SECTION 236. Section 13B of chapter 265 of the General Laws, as so appearing, is hereby amended by inserting after the word "years", in line 6, the following words:-
; provided, however, that a prosecution commenced under the provisions of this section shall not be placed on file or continued without a finding.

Chap. 194

SECTION 237. Section 22A of said chapter 265, as so appearing, is hereby amended by inserting after the word "years", in line 7, the second time it appears, the following words:- ; provided, however, that a prosecution commenced under the provisions of this section shall not be placed on file or continued without a finding.

SECTION 238. Section 23 of said chapter 265, as so appearing, is hereby amended by inserting after the word "years", in line 7, the second time it appears, the following words:- ; provided, however, that a prosecution commenced under the provisions of this section shall not be placed on file or continued without a finding.

SECTION 239. Section 57 of chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after the word "superior", in line 15, the following words:- ; provided, however, that a person authorized to take bail shall accept, if offered, cash or a certified bank check drawn on a financial institution as defined in section 1 of chapter 63.

SECTION 240. Chapter 277 of the General Laws is hereby amended by striking out section 70C, as so appearing, and inserting in place thereof the following section:-

Section 70C. Upon oral motion by the commonwealth at arraignment or pretrial conference, the court may in its discretion treat a violation of a municipal ordinance, or by-law or a misdemeanor offense as a civil infraction. The provisions of this section shall not apply to the offenses in sections 22F, 23, 24, 24D, 24G, 24L, and 24N of chapter 90, sections 8, 8A, and 8B of chapter 90B, chapter 119, chapter 119A, chapter 209, chapter 209A, chapter 265, sections 1, 2, 3, 6, 6A, 6B, 8B, 13, 13A, 13B, 13C, 14, 14B, 15, 15A, 16, 17, 18, 19, 20, 23, 28, 31 and 36 of chapter 268, chapter 268A, sections 10, 10A, 10C, 10D, 10E, 11B, 11C, 11E, 12, 12A, 12B, 12D and 12E of chapter 269 and sections 1, 2, 3, 4, 4A, 4B, 6, 7, 8, 12, 13, 16, 28, 29A and 29B of chapter 272. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to any term of incarceration nor be entitled to appointed counsel pursuant to chapter 211.

When the court has treated a violation of a municipal ordinance or by-law or a misdemeanor offense as a civil infraction under this section and the ordinance, by-law or misdemeanor in question does not set forth a civil fine as a possible penalty, the court may impose a fine of not more than \$5,000. An adjudication of responsibility shall neither be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 241. Section 10 of chapter 645 of the acts of 1948, as appearing in section 2 of chapter 746 of the acts of 1987, is hereby amended by adding the following sentence:- Notwithstanding the foregoing, the board of education shall not approve any project for any school district which fails to spend in the year preceding the year of application at least 50 per cent of the sum of said school district's calculated foundation budget amounts for the purposes of foundation utility and ordinary maintenance expenses, and extraordinary maintenance allotment as defined in chapter 70 of the General Laws, for said purposes; provided further, that from fiscal year 1999 forward, no school district shall be

Chap. 194

approved for a project nor receive school building assistance funds unless said district has spent at least 50 per cent of the sum of said district's calculated foundation budget amounts in each of the fiscal years including and succeeding fiscal year 1999; provided further, that all projects which received first school building assistance payments prior to July 1, 2000 shall be exempted from the provisions of this paragraph; and provided further, that upon a request of a school district, the board of education and the division of local services are hereby authorized to grant a waiver from said requirement for unanticipated or extraordinary changes in maintenance spending as determined by said departments, including, but not limited to, the impact on said spending because of the opening of a new school building, the closing of an existing school building, or the completion of a major renovation project.

SECTION 242. Chapter 645 of the acts of 1948 is hereby further amended by striking out section 19, as most recently amended by section 500 of chapter 151 of the acts of 1996, and inserting in place thereof the following section:-

Section 19. This act shall cease to be operative on June 30, 2003, except that the payments provided by sections 12 to 15, inclusive, shall continue thereafter by the state treasurer, subject to appropriation, in accordance with the provisions of said sections on certification by the commissioner of education.

SECTION 243. Section 12 of chapter 465 of the acts of 1956, as amended by section 7 of chapter 599 of the acts of 1958, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- The bonds issued under the provisions of this act shall be secured by a trust agreement by and between the Authority and a corporate trustee located within or without the commonwealth and which shall be a trust company or bank having the powers of a trust company.

SECTION 244. Section 8A of chapter 1078 of the acts of 1973 is hereby repealed.

SECTION 245. The third paragraph of section 6 of chapter 212 of the acts of 1975 is hereby amended by striking out, in lines 5 and 6, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 246. The first paragraph of section 8F of said chapter 212, as appearing in section 255 of chapter 450 of the acts of 1996, is hereby amended by striking out, in line 14, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 247. The fifth paragraph of section 15A of said chapter 212, as appearing in section 14 of chapter 130 of the acts of 1987, is hereby amended by striking out, in lines 8 and 21, the words "planning and operations" and inserting in place thereof, in each instance, the following words:- asset management and maintenance.

SECTION 248. The sixth paragraph of said section 15A of said chapter 212, as so appearing, is hereby amended by striking out, in line 2, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 249. Section 4 of chapter 775 of the acts of 1975 is hereby amended by striking out clause (a) and inserting in place thereof the following clause:-

(a) Except as otherwise provided in this act, the powers of the corporation shall be exercised by a board of nine directors. The governor shall appoint two directors who shall serve at the pleasure of said governor. The member cities and towns shall elect seven directors from among their respective managers of municipal lighting and members of their municipal light boards. Four of the elected seven directors shall be elected by the member cities and towns each of whom shall have a vote which shall be given weight in the same proportion which its annual kilowatt hour sales, as most recently reported to the department under chapter 164 of the General Laws or as otherwise determined or estimated in accordance with the by-laws, bears to the total of such sales by all member cities and towns. Three of the elected seven directors shall be elected by the member cities and towns each of whom shall have one equal vote. Of the directors elected at the annual meeting in 1999, two of the four directors elected by weighted vote shall serve for a term of three years and two shall serve for a term of two years. One of the directors elected by equal vote shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year. Thereafter, all seven elected directors shall be elected as their respective terms expire in the manner prescribed in this section and each shall serve for a term of three years and until their successors are chosen and qualified. An elected director may be removed at any time by the member cities and towns with or without cause or for cause by the board. The member cities and towns shall elect a successor to fill any vacancy among the elected directors for the respective unexpired term. No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the board. A majority of the full membership of the board shall constitute a quorum and a majority of such quorum shall be necessary for any action by the board. The directors shall not be entitled to compensation for their services as such but shall be reimbursed for actual expenses necessarily incurred in the performance of their duties.

SECTION 250. Section 2 of chapter 859 of the acts of 1975 is hereby amended by striking out paragraphs (c) and (d).

SECTION 251. Section 3 of chapter 784 of the acts of 1979, as most recently amended by chapter 807 of the acts of 1981, is hereby amended by striking out the third sentence and inserting in place thereof the following four sentences:- Said corporation shall require each purchaser to sign an agreement whereby at the time when a unit is resold, to the extent that the adjusted resale price, as defined below, exceeds the price originally paid by the purchaser, the purchaser shall pay to the commonwealth an amount equal to the difference between (i) the fair market value of the housing unit at the time the purchaser originally purchased the unit as established by an independent appraiser and (ii) the below market sales price paid by such purchaser. The adjusted resale price of the unit shall be the resale price, less actually incurred closing costs and brokerage fees, such fees not to exceed 7 per cent of the resale price. Notwithstanding any language to the contrary, upon the effective date of this act, all pending and future transactions shall apply the adjusted resale price, as established herein, in calculating the amount owed to the commonwealth upon resale of any unit. All

Chap. 194

such agreements shall expire upon the exhaustion of the established lottery list, or in the year 2005, whichever occurs first.

SECTION 252. Paragraph (h) of section 4 of chapter 372 of the acts of 1984 is hereby amended by striking out, in lines 1 and 2, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 253. Paragraph (b) of section 8 of said chapter 372 is hereby amended by striking out, in lines 31 and 32, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 254. Paragraph (c) of section 9 of said chapter 372 is hereby amended by striking out, in line 16, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 255. The second paragraph of paragraph (d) of said section 9 of said chapter 372 is hereby amended by striking out, in lines 14 and 15, the words "planning and operations" and inserting in place thereof the following words:- asset management and maintenance.

SECTION 256. Paragraph (a) of section 12 of chapter 372 of the acts of 1984 is hereby amended by striking out the fifth sentence, as appearing in section 39 of chapter 88 of the acts of 1997, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed \$4,370,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 257. Section 16 of said chapter 372 is hereby amended by striking out the fourth sentence, as appearing in section 40 of said chapter 88, and inserting in place thereof the following sentence:- The aggregate principal amount of all bonds issued under the authority of this act shall not exceed the sum of \$4,370,000,000 outstanding at any one time; provided, however, that bonds for the payment of redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in the computation of outstanding bonds.

SECTION 258. Section 92 of chapter 71 of the acts of 1993, as amended by chapter 220 of the acts of 1997, is hereby further amended by inserting after the word "Laws", in line 5, the following words:- ; provided further, that until June 30, 2003, section 41 of this act shall not apply to a school nurse employed by a state agency including, but not limited to, the department of public health or a municipality, not including school nurses employed by school districts on or before June 30, 1998.

SECTION 259. Section 8 of chapter 428 of the acts of 1993 as amended by chapter 164 of the acts of 1997, is hereby further amended by inserting after the words "and may include reimbursements made pursuant to an agreement between the commonwealth and another state or states", the followings words:- ; provided, however, that the amount of said reimbursement surcharge shall be determined based solely on the amount of waste in storage

for disposal at a facility established either through siting in the commonwealth or by agreement with other states, regions, districts or entities, but shall not include waste in storage for disposal at a facility other than a facility described above pursuant to a written contract with any other such facility.

SECTION 260. Section 58 of chapter 475 of the acts of 1993 is hereby amended by striking out the third sentence, as appearing in chapter 129 of the acts of 1997, and inserting in place thereof the following sentence:- Section 2A shall take effect on January 1, 2000.

SECTION 261. Section 27 of chapter 482 of the acts of 1993 is hereby amended by striking out, in line 4, the words "four million, five hundred thousand dollars" and inserting in place thereof the following figure:- \$5,800,000.

SECTION 262. Chapter 192 of the acts of 1994 is hereby amended by striking out section 3 and inserting in place thereof the following section:-

Section 3. Notwithstanding the provisions of any other general or special law to the contrary and except as herein provided, each member of the general court shall receive for each regular annual session \$46,410. The president of the senate and the speaker of the house of representatives shall each receive for each regular session \$35,000 additional compensation. The chairman of the senate committee on ways and means and the chairman of the house committee on ways and means shall each receive for each regular session \$25,000 additional compensation. The floor leaders of each of the major political parties in the senate and house of representatives shall each receive for each regular session \$22,500 additional compensation. The assistant floor leaders of each of the major political parties in the senate, the assistant floor leader of each of the major political parties in the house of representatives, the second assistant floor leaders of each of the major political parties in the senate and house of representatives, the third assistant floor leader of the minority party in the senate and house of representatives, the chairmen of each of the four divisions of the house of representatives, the chairman of the house committee on rules, the chairman of the house committee on long-term debt and capital expenditures, the vice chairman of the house committee on ways and means, the vice chairman of the senate committee on ways and means, the ranking minority members of the house and senate committees on ways and means, the senate chairman and the house chairman of the committee on post audit and oversight, the senate chairman and the house chairman of the committee on taxation, the senate chairman and the house chairman of the committee on science and technology shall each receive for each regular session \$15,000 additional compensation. Other chairmen of committees of the house of representatives and the senate established by the joint rules or the house or senate rules, the house vice chairman of the committee on post audit and oversight, the assistant vice chairman of the senate committee on ways and means, the assistant vice chairman of the house committee on ways and means, the vice chairman of the house committee on taxation, the vice chairman and the ranking minority member of the house committee on rules, the vice chairman and the ranking minority member of the house committee on long-term debt and capital expenditures shall each receive for each regular session \$7,500

Chap. 194

additional compensation; provided, however, that no chairman who serves as chairman of more than one such committee shall receive more than the compensation established for a chairman of one of any such committees. Each member of the general court shall be entitled to be paid for his compensation for each such session at the rate of one-twelfth the amount of compensation for such session for each full month of the session. Such payment shall be to him, upon his request, on the last legislative day in which the general court is in session preceding the fifteenth day of each month, and on the date preceding the last legislative day of each month, and shall be for an amount not exceeding the proportion then due at the aforesaid rate; provided, however, that the state treasurer may, during such regular session, make additional payments on account, in excess of such monthly rate, to any member making written request therefor but the amount of such additional payments shall not exceed, in the aggregate, \$1,500 in any one session, or \$2,000 if such session continues beyond July 1, and in no event shall the amount of all payments under this section during such session to any member exceed, in the aggregate, the compensation of such member for such session.

SECTION 263. Section 8A of chapter 231 of the acts of 1994, as amended by section 39 of chapter 205 of the acts of 1996, is hereby amended by striking out the words "July first, nineteen hundred and ninety-eight" and inserting in place thereof the following words:- July 1, 2000.

SECTION 264. Section 251 of chapter 38 of the acts of 1995 is hereby amended by striking out, in line 2, the words "each fiscal year thereafter" and inserting in place thereof the following words:- until November 27, 1996.

SECTION 265. Section 301 of chapter 38 of the acts of 1995 is hereby repealed.

SECTION 266. Section 341 of said chapter 38 is hereby amended by striking out the last sentence, as amended by section 158A of chapter 43 of the acts of 1997, and inserting in place thereof the following sentence:- Said commission shall report its recommendations to the clerks of the house of representatives and the senate on or before June 30, 1999.

SECTION 267. Section 1 of chapter 108 of the acts of 1995 is hereby amended by striking out, in line 3, the words "each fiscal year thereafter" and inserting in place thereof the following words:- until December 31, 1996.

SECTION 268. Chapter 295 of the acts of 1996 is hereby amended by striking out sections 1 to 25, inclusive, and inserting in place thereof the following 20 sections:-

Section 1. The city of Pittsfield, by majority vote of its city council, may, subject to the provisions of this act, create a body corporate to be known as the Pittsfield Economic Development Authority, hereinafter referred to as the "Authority".

Section 2. The purposes of the Authority shall be to acquire properties contaminated by oil or hazardous material, conduct response actions thereon and construct, develop, maintain, lease, convey or otherwise transfer such property for the beneficial reuse or development of such property to promote economic development on behalf of the city of Pittsfield. Said board, as defined herein, acting for and on behalf of said Authority, may take

by eminent domain under chapter 79 of the General Laws or acquire by purchase or otherwise any disposal site in the city of Pittsfield, or a portion thereof, as defined by section 2 of chapter 21E of the General Laws, hereinafter referred to as chapter 21E and associated lands, properties, water rights, and rights of ways may conduct response actions pursuant to the requirements of said chapter 21E and regulations promulgated pursuant thereto; may construct, maintain or operate and lease such industrial or commercial facilities acquired by the Authority; may sell, by negotiation with the city of Pittsfield or a private party or at public auction, any property, including land acquired by the Authority pursuant to this act and which in the Authority's opinion is no longer needed in the performance of the powers and duties conferred and imposed on it by this act; and may, from time to time, lease any property which in the Authority's opinion is not needed for the purposes of this act; and may do all other things proper or necessary for the purposes of this act; provided, however, that the Authority shall not take in fee any land of a railroad corporation and shall not enter upon or construct, maintain or operate any industrial or commercial facility within the location as it may agree upon with such corporation or, in the case of failure to agree, as approved by the department of telecommunications and energy.

Section 3. The Authority may enter into agreements to indemnify and hold harmless future owners or operators of properties acquired by the Authority pursuant to this act from and against liability pursuant to sections 4, 4A and 5 of chapter 21E of the General Laws with respect to any releases or threats of release of oil or hazardous material that first began to occur before such owners or operators acquire ownership or possession of the property; provided, however, that such indemnification shall not apply to any violation of or change to a restriction in use imposed on the property as part of a response action conducted by the Authority. Notwithstanding any provision of said chapter 21E to the contrary, such owner or operator who acquires ownership or possession of property from the Authority shall not be deemed an owner or operator for purposes of said chapter 21E with respect to any release or threat of release of oil or hazardous material that first began to occur at or from a property before the time that such owner or operator acquired ownership or possession; provided, however, that: (1) such owner or operator is a bona fide new owner or operator and is not affiliated with any other person potentially liable for response costs or damages to natural resources caused by such release or threat of release through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than that created by the instruments by which title to the property is conveyed or financed; (2) such owner or operator provides reasonable access to the property to employees, agents and contractors of the department of environmental protection to conduct response actions and to other persons intending to conduct response actions; and (3) such owner or operator does not violate or fail to comply with any restriction on future use of the site imposed pursuant to section 6 of said chapter 21E and regulations promulgated pursuant thereto. When such owner or operator is not an owner or operator pursuant to this definition, any person who owned or operated the property immediately prior to the Authority's acquisition of ownership or possession shall be deemed the owner or operator pursuant to said chapter 21E.

Notwithstanding any other provision of this definition, the Authority's tenants, subtenants or other person using or acquiring a property from the owner may be deemed an owner or operator with respect to any release or threat of release that first begins to occur at or from a property after the time that the Authority takes ownership or possession of it for any purpose authorized by this act.

Section 4. (a) The Authority may enter into agreements with its response action contractors to indemnify and hold harmless its response action contractor against any liability for negligence, including legal fees and costs, if any, in an amount not to exceed a figure established by the indemnification agreement pursuant to the terms of this section. In no event shall the amount of indemnification to be provided under an indemnification agreement exceed \$2,000,000 for a single occurrence involving the release or threat of release of oil or hazardous material. No indemnification shall be provided pursuant to an indemnification agreement under this section if the response action contractor fails to meet the standard of care which is the degree of care that a reasonable and diligent hazardous waste site cleanup professional licensed pursuant to sections 19 and 19J, inclusive, of chapter 21A shall exercise when rendering a waste site cleanup activity opinion pursuant to said sections 19 and 19J or if the action or omission which gives rise to the claim is not within the scope of the response action contract.

(b) The indemnification provided under this section shall apply only to response action contractor liability arising out of response activity conducted by the response action contractor in response to a release or threat of release of oil or hazardous material.

Section 5. The Authority shall be authorized to take or arrange for necessary response actions as determined by reference to the Massachusetts Contingency Plan, as defined in section 3 of chapter 21E of the General Laws, or for response actions as determined in reference to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq., the Resource Conservation and Recovery Act 42 U.S.C. 6901 et seq., the Toxic Substances Control Act of 1976, 15 U.S.C. 2601 et seq., amended by 15 U.S.C. 2642 et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., and the Clean Air Act, 42 U.S.C. 7401 et seq. The Authority shall be entitled to reimbursement from any other person liable for such release or threat of release for the reasonable costs of such response actions, including all litigation costs and attorneys' fees. All claims for contribution, reimbursement or equitable share by the Authority pursuant to this section and chapter 21E of the General Laws shall be brought in accordance with the procedures set forth in section 11A of said chapter 21E.

The Authority may enter into agreements with prior owners or operators of a site or vessel or persons who may have otherwise caused or may be legally responsible for releases or threats of releases of oil or hazardous material, to conduct or reimburse the Authority for the costs of response actions. In conducting any response action pursuant to the requirements of said chapter 21E and the regulations promulgated thereto, the Authority shall not be exempt from any compliance or permit fees.

Section 6. In the event that a response action or portion of a response action conducted by the Authority includes a restriction on future use of the property pursuant to section 6 of chapter 21E and the regulations promulgated thereto, the Authority shall have no liability or responsibility for any future or subsequent violation of such restriction or for any necessary and appropriate response action on account of use of the property by a future owner or operator contrary to the requirements of such restriction.

Section 7. Except as expressly provided by this section, the Authority shall not be deemed an "owner" or "operator" under the provisions of clauses (2) and (5) of paragraph (a) of section 5 of chapter 21E of the General Laws and shall be excluded from the definition of "owner" or "operator" with respect to releases and threats of releases that first begin to occur before the Authority acquires ownership or possession of a property; provided, however, that upon acquiring ownership or possession of a property, said Authority shall:

(1) provide notice to the department of environmental protection, immediately upon obtaining knowledge of a release or threat of release of oil or hazardous material for which notification is required pursuant to, and in compliance with, section 7 of said chapter 21E or regulations promulgated pursuant thereto;

(2) provide reasonable access to the property to employees, agents and contractors of said department to conduct response actions, if necessary, and to other persons intending to conduct necessary response actions;

(3) take or arrange for any and all response actions necessary and appropriate regarding releases or threats of releases under said chapter 21E and any regulations promulgated pursuant thereto.

In the event that the department incurs response action costs in connection with any site acquired by the Authority, the Authority shall reimburse the department for such reasonable response actions costs.

Section 8. There is hereby established the Pittsfield Economic Development Board, hereinafter called the board. The Authority shall be under the management and control of said board.

Section 9. The board may enter upon any land for the purposes of making surveys, environmental site assessments, test pits or borings and, for the carrying out of said purposes, may, by purchase or otherwise, temporarily occupy any lands or take property by eminent domain under chapter 79 of the General Laws.

Section 10. The Authority, by vote of the board, may issue, from time to time, general obligation serial bonds or notes to pay for the costs of capital outlays in connection with assessment, containment and removal activities at properties acquired by the Authority and in connection with the construction and operation of industrial and commercial facilities and such other works as may be required, including land damages and costs of demolition of existing structures on lands that may be required.

Such bonds shall be issued in such amounts as the Authority, acting by and through the board, may determine and the Authority may refund any such bonds and notes. Such

Chap. 194

serial bonds and notes may be callable with or without premium and shall contain such terms and conditions, bear such rates of issue, be sold in such a manner, at private or public sale, and mature in such times and in such amounts as the board shall determine, provided, however, that each issue of such bonds and notes shall be payable in annual installments, the first of which shall be payable not later than two years after its date and the last of which shall be payable not more than 30 years from such date.

If the board votes to issue serial bonds or notes, said board may authorize the issuance in the name of the Authority of general obligation temporary notes for a period of not more than two years in anticipation of the money to be received from the sale of such serial bonds or notes. The time within which such temporary notes are issued shall not be extended by reason of the making of such temporary loans beyond the time fixed in the order authorizing such temporary bonds or notes.

For the purpose of paying the expenses of operations including, without limitation, any principal or interest due or about to become due on any serial bond or note issued by the Authority in which funds are not available, the board in the name of the Authority may issue, from time to time, general obligation temporary notes of the Authority in anticipation of any revenues, gifts, grants or receipts from any public or private source.

General obligation temporary notes in anticipation of any revenues, gifts, grants or receipts shall be payable not more than one year from their date and shall not exceed in principal amount the amount of the reasonably known and measurable revenues, gifts, grants or receipts in anticipation of which they are issued.

General obligation temporary notes issued under this section for a shorter period than the maximum permitted may be renewed by the issuance of other general obligation temporary notes maturing within the required period; provided, however, that the period from the date of issue of the original temporary note to the date of maturity of the renewal note shall not exceed the maximum period for which the original note may have been issued. Such temporary notes or renewal notes may be sold at discount or with interest payable at or before maturity.

Notes or serial bonds authorized by this section shall be signed by the treasurer of the board and countersigned by the chairman of the board and serial bonds and notes shall have the Authority's seal affixed. Section 16B of chapter 44 of the General Laws shall be applicable to such serial bonds and notes.

Section 11. The board shall annually determine the amount required for the payment of principal and interest on such serial bonds and notes issued or to be renewed by the Authority which shall be due during the ensuing calendar year and shall also determine such other amounts as may be necessary to maintain and operate the Authority during such year, including capital outlay items the cost of which is not to be funded and for all other matters for which the Authority is required to raise money, and, after determining such payments and amounts, shall promptly prepare a report which shall be provided to the mayor of the city of Pittsfield.

Section 12. To meet the costs of construction, maintenance and operation of the facilities authorized by this act, the Authority may file an application for, or accept and use, any federal or state funds or grants or any federal or state assistance or both provided therefor under any federal or state law or funds from any other sources.

The Authority may also apply for and receive contributions from public or private funding sources for the establishment of a Capitalized Mitigation Fund to be used for the purpose of financing project costs and administered as a revolving loan fund to the city of Pittsfield. Such contributions shall be reported in a yearly report of private contributions to be prepared by the board which shall, not later than February 1 of each year, submit a copy to the house and senate committees on ways and means, the state auditor and the chief executive and city council members of the city of Pittsfield. The Authority may expend funds from said Capitalized Mitigation Fund on any project only after a majority vote of the board. The city of Pittsfield, receiving funding from said fund, shall prepare a complete financial report detailing cost analysis and environmental impact.

Nothing in this section shall be construed to limit the ability of the Authority to accept gifts, grants or contributions from any public, private or charitable source.

Section 13. No lands, rights of ways or other easements, property, structures or rights acquired by the Authority, as herein provided and located in the city of Pittsfield shall be assessed or taxed by the city of Pittsfield so long as such property is owned by the Authority, response actions are on-going and the property and improvements thereon are not in beneficial reuse by a third party as so determined in the judgement of the board. Following the completion of the response actions or transfer or upon beneficial reuse of the property, it shall be assessed or taxed by the city of Pittsfield.

Section 14. The board shall consist of five members appointed by the mayor of the city of Pittsfield. Official action shall require the affirmative vote of at least said majority of the board.

In appointing such members, the mayor shall choose at least one member who is experienced with or knowledgeable about the financing or issuance of bonds, such member to be appointed for a term of two years; one member who is experienced with or knowledgeable about environmental matters, including contamination of land, such member to be appointed for a term of two years; one member who is experienced with or knowledgeable about economic development and planning, such member to be appointed for a term of three years; one member who lives in or will represent the interest of the neighborhoods which will be most directly affected by the activities of the Authority, such member to be appointed for a term of one year and one member who shall be appointed for a term of one year. The mayor may serve as a member of the board.

At the expiration of the term of any member or upon the resignation or disqualification of any member, the mayor shall appoint a new member for an equivalent term as the member whose seat the new member is replacing. Each member whose term has expired shall serve until the qualification of a successor. A board member may be reappointed.

Section 15. The board shall appoint and determine the compensation of an Authority director who shall be the chief executive officer of the Authority and shall administer the affairs and direct the work of the Authority as approved by the board. Such director may, in the discretion of the board, also hold elective office, notwithstanding any provisions of chapter 268A or any other of the General Laws to the contrary. The board shall set forth the powers and duties of the director in its bylaws.

The director may, upon approval of the board or as otherwise provided in the Authority's bylaws, enter into agreements for professional construction services to be provided to the Authority by private contractors. The director shall be familiar with economic development in Berkshire county and shall possess such other qualifications as are determined by the board.

Section 16. The Authority shall have a seal consisting of a circular die bearing the words "Commonwealth of Massachusetts, Pittsfield Economic Development Authority", which seal may be used whenever deemed advisable by the board on papers and documents issued or executed by the board or by any officer or employee designated by the board.

Section 17. The board shall prepare and adopt bylaws describing and stipulating its organization and operations. The board members shall annually, in the month of April, select a chairman, vice-chairman, and secretary, from among the membership who shall act as an executive committee. Members of the board may receive compensation from the Authority which shall not exceed \$500 per year for a board member or \$1,000 per year for the chairman, vice-chairman or secretary. Board members may be reimbursed for actual expenses incurred in performance of their duties on approval of the board.

The board shall appoint and may, at its pleasure, remove a treasurer and a clerk who shall not be members of the board. Both offices, if the board deems advisable, may be held by the same person. The treasurer shall give the board a bond payable to the Authority with a surety company authorized to transact business within the commonwealth and satisfactory to the board, such surety in such sums as the board may prescribe, and conditioned on the faithful performance of the duties of treasurer. The duties of the treasurer and the clerk shall be those usually pertaining to such offices and, in addition, such as may be from time to time prescribed by the board. The board may retain legal counsel for any and all appropriate purposes.

The director, with the approval of the board, shall from time to time appoint or employ such other experts, agents, officers, clerks and other employees as deemed necessary and shall determine their duties. The salaries or compensation of all persons appointed or employed under authority of this section shall be determined by the board and, together with other expenses, shall be paid by the Authority and shall be considered a part of the expense of maintenance of the Authority. The board shall establish an office within the city of Pittsfield in which its business may be conducted and in which plans, documents, records and other papers relating to its business, land and other works and properties shall be kept.

Chap. 194

The Authority shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities which shall be open at all times for inspection by the city of Pittsfield or by any officer or duly appointed agent of the commonwealth.

The board shall make a report each year of its activities for the preceding year and shall, prior to February 1, submit a copy of such report to the state auditor and to the city of Pittsfield. A copy of such report shall also be submitted to the department of environmental protection.

Section 18. Initial organization of the board established under the provisions of section 8 shall take place within 180 days after the affirmative vote of the city council of Pittsfield for the formation of the Authority. If the board does not organize itself and form the Authority within 180 days, the action of the city council shall be null and void.

Section 19. The Authority shall provide for early direct community involvement in each significant phase of response activities taken under this Authority. This shall include providing the community with access to information necessary to develop comments on decisions regarding site characterization, risks posed by the site and selection of assessment, containment, and removal actions.

Process for involvement: (1) site assessment - whenever practicable, during the site assessment, the Authority shall solicit and evaluate the concerns and interests of the community likely affected by the site by whatever means deemed appropriate by the Authority; (2) site cleanup - after assessment and feasibility study and a method of cleanup has been determined, the Authority shall solicit the views and preferences of the community likely affected by this cleanup including the disposition of the oil, hazardous material, pollutants, or contaminants at the site.

Section 20. The department of environmental protection shall promulgate rules and regulations, after notice and hearing in accordance with chapter 30A of the General Laws, to set up and implement a pilot project in the city of Pittsfield for the purpose of reuse and redevelopment to promote economic growth at said site. The department shall involve in the process all interested parties including, but not limited to, the United States Environmental Protection Agency, the attorney general of the commonwealth, the elected officials in the city of Pittsfield and the Massachusetts office of business development or its successor. The department shall prepare a preliminary plan not later than 120 days after the effective date of this act and shall publish notice thereof in the state environmental monitor. Such pilot project shall require significant economic activity for the city of Pittsfield providing net new jobs as defined by chapter 19 of the acts of 1993. Such pilot project shall include: (1) allowing the long-term use of one or more temporary solutions, as such term is defined in subsection (f) of section 3A of chapter 21E of the General Laws, to satisfy the remediation requirements of said section 3A; (2) establishing appropriate reporting and monitoring requirements for the construction and maintenance of such temporary solutions; (3) defining the department's responsibilities for reviewing and approving such temporary solutions and

Chap. 194

reporting and monitoring thereof; (4) providing for an appropriate and efficient process to allow public participation with respect to the department's approval and review of such temporary solutions as set forth in clause (3); (5) defining the limited circumstances in which, upon petition of the department or another person or party, a permanent solution may be required in lieu of the continuation of such temporary solutions; and (6) providing appropriate incentives, within the limits of state laws or regulations, to induce any participant in such a pilot project to complete remediation expeditiously.

SECTION 269. Item 1750-0103 of section 2A of chapter 10 of the acts of 1997 is hereby amended by striking out the words "June 30, 1998" and inserting in place thereof the following words:- June 30, 1999.

SECTION 270. Section 180 of chapter 43 of the acts of 1997 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The division of capital asset management and maintenance shall develop a plan for the orderly expenditure of such sums as are received by the Asbestos Cost Recovery Fund for the purposes of operations and maintenance, encapsulation and removal of asbestos.

SECTION 271. Item 7004-8975 of section 2E of chapter 88 of the acts of 1997 is hereby amended by adding the following words:- ; provided, that not less than \$275,000 shall be expended for the demolition of abandoned buildings in the city of Brockton by said city; and provided further, that not less than \$275,000 shall be expended for the demolition of abandoned buildings in the city of Lawrence by said city.

SECTION 272. Section 92 of chapter 88 of the acts of 1997 is hereby amended by striking out the second sentence, as amended by section 36 of chapter 170 of the acts of 1997, and inserting in place thereof the following sentence:- Said transfer is hereby deemed a temporary loan to the uncompensated care pool; provided, however, that such loan shall be repaid to the general fund on June 30, 1999.

SECTION 273. Chapter 102 of the acts of 1997 is hereby amended by adding the following section:-

Section 2. This act shall take effect as of April 15, 1997.

SECTION 274. Section 334 of chapter 164 of the acts of 1997, is hereby amended by striking out the words "June 15, 1998", inserted by section 20 of chapter 99 of the acts of 1998, and inserting in place thereof the following words:- December 31, 1998.

SECTION 274A. The board of education shall define standards and competencies commensurate with attainment and renewal of such certificates not later than September 1, 1999.

SECTION 275. Notwithstanding the provisions of clause Forty-first of section 7 of chapter 4 of the General Laws or any other general or special law to the contrary, the commissioner of revenue or other official responsible for a local reimbursement or assistance program reported by said commissioner pursuant to section 25A of chapter 58 of the General Laws shall use the 1996 city and town population estimates of the United States Bureau of

Chap. 194

the Census in calculating distributions or assessments under such local reimbursement or assistance programs. Such distribution programs shall include, but not be limited to, the school aid program established under the provisions of chapter 70 of the General Laws and regional public libraries. Such assessments shall include, but not be limited to, air pollution control districts, the metropolitan area planning council, the Old Colony Planning Council, the Massachusetts Bay Transportation Authority and any other entity for which said commissioner is required to give notice pursuant to said section 25A.

SECTION 276. Notwithstanding the provisions of any general or special law to the contrary, except sections 52 to 55, inclusive, of chapter 7 of the General Laws, the secretary of administration and finance shall in fiscal year 1999 identify and pursue projects to optimize nontax revenue management and collections by the commonwealth. The secretary or his designee may also enter into contracts with private vendors and enter into interdepartmental service agreements with departments to identify and pursue such projects. Private vendors shall be compensated from nontax revenues collected by such projects in excess of the nontax revenues established by such contracts as the minimum to be collected by each such project. For the purposes of this section, such payments to vendors for services performed shall be known as "vendor participation payments" and nontax revenue collected pursuant to this section, after deduction of vendor participation payments, shall be known as "net additional revenue". For the purposes of this section, the terms "department" or "participating department" shall mean a department, agency, board, commission, office or institution under the executive control of the governor or other constitutional officers and determined by the secretary to be participating in the revenue optimization projects authorized by this section.

A vendor shall be compensated only if: (1) the revenue achieved for each specific revenue source is new revenue; provided, however, that new revenue shall be defined as revenue in addition to revenue collected during the base period for each revenue source; and (2) in the event of revenue sources which are caseload-driven federal reimbursements, so-called, the ratio of such revenue source to the reimbursable expenditure has exceeded the highest such ratio during the base period.

A department shall receive incentive payments pursuant to this section and item 1599-0033 of section 2 only if the collection of a fee or any other nontax revenue during the base period is greater than the highest amount of revenue collected from such fee or other nontax revenue during the base period; provided, however, that the net additional revenues shall only be those amounts collected which are in excess of the amounts projected in section 1B for each department, office, commission and agency or its successor.

For the purposes of this section, the term "base period" shall refer to the fiscal years beginning on July 1, 1992 and ending on June 30, 1998. Revenues which are attributable to a new fee or a newly reimbursable service or clientele shall be considered to have a base period revenue level of zero. The commonwealth shall retain all rights in software programs developed pursuant to any contract executed under this section.

Chap. 194

The comptroller shall deposit in the Maximization Fund, established by section 2R of chapter 29 of the General Laws, all monies collected pursuant to the provisions of this section. The comptroller may allocate from said fund, upon direction of the secretary of administration and finance, up to the amount of the appropriation contained in item 1599-0033 of section 2 to participating departments pursuant to the following calculations: a) an amount not to exceed \$2,000,000 when the net additional revenue, after providing for vendor participation payments, this department allocation and other charges directed to the fund, accumulates to \$10,000,000; b) an amount not to exceed \$2,500,000 when the net additional revenue, after providing for vendor participation payments, this department allocation and other charges directed to the fund, accumulates to \$15,000,000; c) an amount not to exceed \$3,000,000 when the net additional revenue, after providing for vendor participation payments, this department allocation and other charges to the fund, accumulates to \$20,000,000; or d) an amount not to exceed \$3,500,000 when net additional revenue, after providing for vendor participation payments, this department allocation and other charges to the fund, accumulates to an amount equal to or greater than \$25,000,000. Eighty-five per cent of such allocations shall be distributed to participating departments in proportion to the amount of revenues collected by each individual department as a per cent of the total amount of revenues collected under the provisions of this section. The remaining 15 per cent shall be distributed to participating departments at the discretion of said secretary, notwithstanding the amount of revenues collected by each individual department. The comptroller shall transfer to the general fund at the close of the fiscal year any balance remaining in the Maximization Fund after providing for such allocations, vendor participation payments and other charges to said Maximization Fund; provided, however, that no expenditure shall be made from said Maximization Fund that would cause said fund to be in deficit at the close of the fiscal year. Departments receiving allocations pursuant to said item 1599-0033 may, subject to the provisions of this section, expend such funds without appropriation after obtaining the written approval of said secretary or his designee of a plan detailing such proposed expenditures, allocations and reallocations, and the filing of such approved plan with the house and senate committees on ways and means not less than ten days in advance of any such allocation or reallocation. All expenditures made pursuant to the provisions of this section and said item 1599-0033 shall be for one-time expenses which shall not recur in fiscal year 2000 or a subsequent fiscal year. Funds appropriated for expenditures by the provisions of this section and said item 1599-0033 shall not be used to supplant purposes authorized in any other item of appropriation in section 2 or appropriated in a supplemental appropriations act enacted in fiscal year 1999 or a subsequent fiscal year. Any unexpended balance from such allocations at the end of each fiscal year shall revert to the general fund unless such spending plan has been approved by the secretary as a multi-year expenditure.

The comptroller shall report, not later than January 31 of each year, to the house and senate committees on ways and means on the results and operations of the revenue optimization projects authorized by this section, for the six-month period ending the preceding month.

Chap. 194

Such information shall detail, by each vendor, project and department: the amount of vendor participation payments paid to each such vendor; the net additional revenues retained by the commonwealth; the amounts allocated or reallocated to each such participating department pursuant to said item 1599-0033 and this section and the estimated annual receipts, payments and allocations for the fiscal year.

The comptroller shall report to the house and senate committees on ways and means, not later than July 31 of each year, the preceding information for the prior fiscal year, the total of all vendor participation payments made to each vendor and the net commonwealth receipts collected by each project over the duration of the project. On or before July 31 of each fiscal year, the comptroller shall submit to the house and senate committees on ways and means a plan approved by the secretary of administration and finance detailing, by executive office and department, the net additional revenues estimated to be collected under the provisions of this section in the fiscal year. The provisions of this section shall remain in effect until July 1, 2000.

SECTION 277. Notwithstanding the provisions of section 30 of chapter 29 of the General Laws or any other general or special law to the contrary, the division of energy resources may procure, in accordance with all applicable procurement and solicitation laws, comprehensive motor vehicle insurance coverage for electric vehicles purchased for use in the commonwealth's electric vehicle demonstration program; provided, however, that nothing in this section shall be construed to require any additional state appropriated funds for the division of energy resources; and provided further, that such coverage may continue or be renewed until the conclusion of said electric vehicle demonstration program.

SECTION 278. Notwithstanding the provisions of paragraph (g) of section 5 of chapter 32 of the General Laws, or any general or special law to the contrary, James Bloom, a member inactive of a retirement system who was appointed by the governor to a position as clerk magistrate in the Ware district court, shall, upon application to the state retirement board, become a member in service of the state retirement system as of the effective date of his appointment, and the state retirement board is hereby authorized and directed to credit said James Bloom with creditable service from the period of such appointment for the purpose of determining his retirement allowance pursuant to the provisions of chapter 32 of the General Laws; provided, however, that said James Bloom shall pay into the annuity savings fund of said state retirement system an amount equal to that which would have been withheld as regular deductions from his regular compensation plus interest for such service, in one sum or installments, upon such terms and conditions as the state retirement board may prescribe; and provided, further, that said James Bloom shall repay into the system from which he had received a retirement allowance the total amount of any such allowance received from the date of his retirement to the date of his again becoming a member in service of the state retirement system.

SECTION 279. Notwithstanding the provisions of section 17 of chapter 44 of the General Laws, the officers of a city, town or regional school district authorized to issue

Chap. 194

bonds, notes or certificates of indebtedness for a school construction project for which it has received notice that it has filed a completed school building assistance application with the department of education and that the project has been placed by the department on the school building assistance priority list, may refund, by the issuance of refunding notes, a temporary loan issued in anticipation of money to be derived from the sale of such bonds, notes or certificates; provided, however, that the period from the date of issue of the original temporary loan to the final maturity of any such refunding notes shall not exceed five years; and provided further, that such refunding notes shall not be required to be paid in part from revenue funds of the city, town or regional school district until the end of the fiscal year following the fiscal year in which the board of education approves the project for a school construction grant pursuant to the provisions of chapter 645 of the acts of 1948 or a successor school construction grant statute. The time within which the serial bonds, notes or certificates of indebtedness issued to pay refunding temporary notes issued hereunder shall be due and payable shall be extended by the period from the date of the original temporary loan to: (a) the date of issue of such serial bonds, notes or certificates; or (b) the end of the fiscal year in which the board of education approves the project for a school construction grant, whichever date is earlier.

SECTION 280. Notwithstanding the definition of "net school spending" in section 2 of chapter 70 of the General Laws, for the purpose of calculating the minimum required local contribution for fiscal year 1999, pursuant to said chapter 70, the department of education shall consider health care costs for retired teachers to be part of net school spending for any town in which health care costs for retired teachers were considered to be part of net school spending in fiscal year 1994. The department shall not consider health care costs for retired teachers to be part of net school spending for any district in which such costs were not considered part of net school spending in fiscal year 1994. If there is a conflict between the provisions of this section and the distributions listed in section 3, the provisions of said section 3 shall control.

SECTION 281. Notwithstanding the provisions of subsection (4) of section 9A of chapter 118E of the General Laws or any other general or special law to the contrary, the MassHealth program of medical benefits provided to eligible beneficiaries pursuant to clause (g) of subsection (2) of said section 9A shall include coverage for medically necessary eyeglasses and hearing aids.

SECTION 282. Notwithstanding the provisions of subsection 13 of section 9C of chapter 118E of the General Laws or any other general or special law to the contrary, in fiscal year 1999 all expenditures for the insurance reimbursement program established by section 9C of chapter 118E of the General Laws shall be made from the Children's and Seniors' Health Care Assistance Fund established by section 2FF of chapter 29 of the General Laws pursuant to the budget neutrality analysis dated February 24, 1998.

SECTION 283. Notwithstanding any provisions of section five of chapter 118G of

the General Laws to the contrary, the amount assessed to acute hospitals in fiscal year 1999 for the estimated expenses, including indirect costs, of the division of health care finance and policy shall be equal to the amount appropriated by the general court in item 4100-0060 in section 2 less amounts projected to be collected in fiscal year 1999 from (1) filing fees and (2) fees and charges generated by the division's publication or dissemination of reports and information.

SECTION 284. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall establish, in fiscal years 1999 and 2000, a pilot program to assess the clinical, programmatic and fiscal impact of extending nursing facility bed-holds, so-called, from 10 to 20 days for medical leaves of absence for persons receiving benefits under chapter 118E of the General Laws. Under said pilot project, said division shall pay to reserve a bed for a medical leave of absence from a nursing facility for such a person who is admitted on an inpatient basis to a hospital, as defined in said division's regulations, for up to 20 consecutive days. Reimbursement to nursing facilities for the eleventh through the twentieth bed-hold day, inclusive, shall be paid at the lowest rate established by the division of health care finance and policy for the nursing facility in which such person resides for the rate year in which the medical leave of absence occurs. For the purposes of this section, a medical leave of absence shall be defined as an inpatient hospital admission which meets all criteria for Medicare hospital level of care pursuant to the provisions of title XVIII of the federal social security act, as determined by the federal health care financing administration or its agent.

On or before March 1, 2000, the division of medical assistance shall submit a cost-benefit analysis of said pilot project to the house and senate committees on ways and means and the executive office of administration and finance. Said cost-benefit analysis shall include, but shall not be limited to: (i) an analysis of the fiscal impact of said pilot project on medicaid expenditures, nursing facility costs and expenditures, and nursing facility residents benefiting from said pilot project; (ii) an analysis of the clinical impacts, if any, that accrued from said pilot project to said residents; and (iii) an analysis of any effect on hospital utilization or physician-ordering patterns resulting from said pilot project. Said analysis shall be accompanied by the supporting cost and utilization data on which they were based.

Nothing in this section shall establish an obligation of the commonwealth or the division of medical assistance to offer extended bed-hold days under said pilot program for any medical leave of absence that does not meet the criteria or determinations for medical necessity.

The criteria and standards in effect for bedholds for non-medical leaves of absence shall remain the same as those in effect in fiscal year 1998 for the duration of the pilot program established herein.

SECTION 285. The secretary of administration and finance, in consultation with the secretary of health and human services, is hereby authorized and directed to investigate the feasibility and necessity of adjusting that component of class rates paid to state-contracted

Chap. 194

providers of substance abuse services that would allow the payment of wage increases to employees earning less than \$30,000 in fiscal year 1999 that would be comparable to increases paid pursuant to item 1599-6896 of section 2 of this act. Said investigation shall include a survey of substance abuse providers of residential rehabilitation, outpatient counseling and inpatient detoxification services to determine whether any compensation adjustments were paid to such employees in fiscal year 1998 or are anticipated to be paid in fiscal year 1999 and shall evaluate whether rates of reimbursement paid in fiscal year 1999 are adequate or sufficient to accommodate a fiscal year 1999 wage adjustment that would be comparable to the increases paid pursuant to said item.

If an adjustment is determined to be warranted, the secretary shall recommend to the governor and the house and senate committees on ways and means whether the appropriations available to state agencies that contract for substance services are sufficient to pay such adjustments in fiscal year 1999 and if not, shall make recommendations to the governor relative to the necessity of making supplemental appropriations to ensure the payment of such an adjustment in said fiscal year. The secretary's recommendation shall further address the ability of the commonwealth's vendor payment systems to ensure that any such adjustment is paid to said employees. If such an adjustment is determined to be warranted, the secretary is hereby authorized and directed to take all steps necessary, including the promulgation of revised rate regulations, to ensure the payment of said adjustments and the ability of the commonwealth to monitor and enforce the payment of said adjustments.

Nothing in this section shall be construed to entitle any person to any wage or compensation adjustment nor otherwise obligate the commonwealth to pay any wage adjustment not otherwise allowable by law or regulations of the division of health care finance and policy or the division of operational services.

SECTION 286. The Massachusetts Commission for the Blind, the Massachusetts Rehabilitation Commission and the Massachusetts Commission on the Deaf and Hard of Hearing are hereby authorized and directed to examine and create a timetable for the collocation of said agencies and the consolidation of duplicative administrative functions including, but not limited to human resources, information services, administration and finance, and contract procurement and maintenance. Said commissions shall submit a report, including, but not limited to, said timetable and expected savings of said consolidation, to the secretary of administration and finance and the house and senate committees on ways and means not later than October 31, 1998.

Nothing stated herein shall be construed as a consolidation of these agencies, or of client services.

SECTION 287. Notwithstanding the provisions of section 12 of chapter 490 of the acts of 1980, the department of housing and community development may authorize neighborhood housing services corporations to retain and reloan funds received in repayment of loans made pursuant to the neighborhood housing services rehabilitation program.

Chap. 194

SECTION 288. Notwithstanding the provisions of section 135 of chapter 697 of the acts of 1987, the provisions of the first paragraph of Option (c) of subdivision (2) of section 12 of chapter 32 of the General Laws shall apply to benefits received pursuant to applications for such benefits, allowances or other payments made prior to January 12, 1988. The provisions of this section shall be prospective from the effective date of this act and shall not entitle any member to any retroactive benefits.

This section shall take effect in a city, town, county, district or authority system by majority vote of the board of such system subject to the approval of the legislative body.

For the purposes of this section, legislative body shall mean, in the case of a city, the city council in accordance with its charter, in the case of a town, the town meeting, in the case of a county, the county retirement board advisory council, in the case of a district, the district members, and, in the case of an authority, the governing body.

SECTION 289. Whenever the name of the division of capital planning and operations appears in any general or special law, rule, or regulation, such name shall henceforward be deemed to mean and be construed as referring to the division of capital asset management and maintenance as established pursuant to the provisions of this act.

SECTION 290. The commissioner of the division of capital asset management and maintenance, is hereby authorized and directed to conduct a capital assets survey to identify scheduled, emergency, and deferred maintenance and repairs and to create a capital asset management plan for the purposes of maximizing the useful life of and preventing deterioration or costly future repairs to the commonwealth's capital assets. For the purposes of this section, the following terms shall, unless the context clearly indicates otherwise, have the following meanings: "capital asset" shall mean physical property that has monetary, economic, or aesthetic value to the commonwealth; "eligible agencies" shall mean those agencies that are entitled to receive funds from the reserve in item 1599-2503 in section 2 of this act, including but not limited to, the bureau of state office buildings, department of mental retardation, the department of mental health, the department of public health, the Massachusetts soldiers homes located in the cities of Chelsea and Holyoke, the department of fisheries, wildlife, and environmental law enforcement, the metropolitan district commission, the office of the chief medical examiner, the department of the state police, the department of corrections, and the trial court of the commonwealth; "routine maintenance" shall mean those activities performed on a regular basis during the course of a fiscal year in order to address ongoing maintenance of capital assets including, but not limited to, groundskeeping, mopping, trash collection, cleansing of restrooms, and vacuuming; "scheduled maintenance and repairs" shall mean those activities performed at designated or periodic intervals during the course of a fiscal year in order to maintain the reasonable condition and operation of a capital asset; "emergency repairs" shall mean those activities which require immediate attention at any time during the fiscal year in order to address unexpected life safety, property protection or environmental health hazards; "deferred maintenance and repairs" shall mean those scheduled maintenance and repairs, or emergency

repairs that have been postponed in prior fiscal years.

Said survey shall include, but not be limited to, an inventory including the type, age, value, and current physical and structural condition of all capital assets held by the executive branch and the trial court of the commonwealth, current condition of major systems including heating, ventilation, and air conditioning systems, water and sewage systems, and electrical systems, the agency, division or unit responsible for the care and maintenance of said capital assets, a list of deferred maintenance and repair activities outstanding, a list, including a description, of scheduled maintenance and repairs necessary to maintain reasonable condition and operation of said assets, and the estimated costs, by subsidiary, of said repairs by fiscal year, project, and agency, division or unit and as prioritized on the basis of a uniform criteria priority rating system established by said commissioner.

Said commissioner, in consultation with personnel assigned to the capital budgeting management program of the fiscal affairs division of the executive office of administration and finance, is hereby further directed to develop and implement a management plan for the scheduled maintenance and repairs to capital assets identified pursuant to this section. Said plan shall include, but not be limited to, an annual schedule of all scheduled maintenance and repair needs of capital assets owned by the executive branch and the trial court of the commonwealth, and any recommendations, including legislation, necessary to effectuate the orderly and cost effective implementation of said schedule. Said commissioner, in consultation with said personnel, is further directed to accommodate and report said maintenance and repair needs for the fiscal year ending June 30, 2000 as part of the governor's annual budget proposal.

All agencies, divisions, and units within said executive branch or trial court of the commonwealth shall cooperate with said commissioner and shall provide him, or his designee, with any and all such information as he may require. Said commissioner shall submit said survey and management plan to the clerk of the house of representatives and the clerk of the senate no later than November 1, 1998.

SECTION 291. Any reference in any general or special law to the "Cape Cod Economic Development Council" shall be deemed to refer to the "Cape Cod Economic Development Council, Inc.".

SECTION 292. Notwithstanding the provisions of this act and of section 79 of chapter 218 of the General Laws, the salary of the clerk of the second district court of Bristol shall remain the amount provided by law as of June 1, 1998.

SECTION 293. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 1999. Based on the criteria outlined in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

Chap. 194

(b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be available for use in the next year or that shall be required to use revenues for extraordinary nonschool-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to one and one-half times the state average municipal revenue growth factor, may appeal to the department of revenue not later than October 1, 1998 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year but no adjustment to the minimum required local contribution on account of an extraordinary expense raised in the budget of the fiscal year ending on June 30, 1999 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, said department shall recalculate such municipal revenue growth factor and the department of education shall use such revised growth factor to calculate preliminary local contribution, minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in minimum required local contribution.

(e) Upon the request of the board of selectmen in a town, the city council in a plan E city, or the mayor in any other city, in a majority of the member municipalities, a regional school district which used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year shall appeal to the department of revenue not later than October 1, 1998 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) A regional school district which received regional school incentive aid in fiscal year 1995 shall, upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, in a majority of the member municipalities, appeal to the department of education for an adjustment in the minimum required local contribution of its member municipalities. The department of education may reduce the increased assessment of the member municipalities as a result of the reorganization of the regional school district by using a portion of the regional incentive aid to reduce the prior year local

Chap. 194

contribution.

(g) If the regional school budget has already been adopted by two-thirds of the member municipalities, then upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with the provisions of this section.

(h) Notwithstanding the provisions of clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed to be the minimum required local contribution described in said chapter 70; provided, however, that the house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(i) In the event that a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(j) The amount of financial assistance due from the commonwealth in fiscal year 1999 under said chapter 70 or any other provision of law shall not be changed on account of any redetermination of the required minimum local contribution under this section.

(k) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 294. Notwithstanding the provisions of any general or special law to the contrary and in order to meet the estimated costs of employee fringe benefits provided by the commonwealth on account of employees of the Massachusetts State College Building Authority and the University of Massachusetts Building Authority and in order to meet the estimated cost of heat, light, power and other services, if any, to be furnished by the commonwealth to projects of the Massachusetts State College Building Authority, the boards of trustees of the state colleges and the University of Massachusetts shall transfer to the general fund from the funds received from the operation of such projects such costs, if any, as shall be incurred by the commonwealth for the aforesaid purposes in the current fiscal year, as determined by the appropriate building authority, verified by the chancellor of higher education and approved by the secretary of administration and finance.

SECTION 295. Notwithstanding the provisions of any general or special law to the contrary, no city, town or regional school district shall receive less than \$100 per student pursuant to chapter 70 of the General Laws for fiscal year 1999.

SECTION 296. The department of education shall collect annual data on the children and households served in each city, town, regional school district, educational

collaborative, head start program and licensed day care provider serving children in early education programs through the Community Partnerships for Children program. Such data shall include, but not be limited to, number of children served, household income level, age, city or town of residence of the children served, type of child care provided, number of days enrolled and number of days in attendance. The department of education, in collaboration with the office for child care services, shall produce a statewide needs assessment of the education needs of children ages three through five in the commonwealth. Said needs assessment shall include, but not be limited to, the number of children aged three through five in each municipality of the commonwealth and early care and education services available in each municipality, an analysis of the number of children enrolled in all federal and state-funded early education and day care programs by program type in each municipality of the commonwealth, staffing capacity at early education and day care programs, and qualifications of all early education and day care staff employed by state funded programs.

SECTION 297. Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy shall for all rate years commencing on or after January 1, 1996 to amend the rate of any facility that has made payments as part of its employee benefits program to an employee stock option plan, as defined by section 4975(e)(7) of the Internal Revenue Code of 1986, to include all such payments to an employee stock option plan made in rate years commencing on or after January 1, 1996 where such facility has not made payments to an employee stock option plan in the base year for such rate year.

SECTION 298. Notwithstanding the provisions of chapter 180 of the General Laws, or any other general or special law to the contrary, upon local option of a city or town, payroll deductions may be made from the salary of an employee of such city or town in an amount which such employee may specify in writing to the city or town treasurer or collector for the payment of a contribution to the education foundation of such city or town. Such authorization may be withdrawn by the employee by giving at least 30 days written notice of such withdrawal to the city or town treasurer or collector. The city or town treasurer or collector shall deduct from the salary of such employee such amount of contributions as may be certified to such treasurer or collector on the payroll and transmit the sum so deducted to the education foundation; provided, however, that the city or town treasurer or collector shall be satisfied by such evidence as he may require that the treasurer of the education foundation has given said foundation a bond for the faithful performance of his duties, in a sum and with such surety as may be satisfactory to the city or town treasurer or collector.

SECTION 299. Notwithstanding the provisions of any general or special law to the contrary, any amounts, including principal, interest and penalties due to the Medical Security Trust Fund established in subsection (k) of section 14G of chapter 151A of the General Laws and owing as of the effective date of this act, from any regional school district or educational collaborative pursuant to section 14G of chapter 151A of the General Laws, are hereby extinguished and the payment thereof excused. Nothing in this section shall be construed to

provide the basis for the refund of payments made by any regional school district or educational collaborative to said fund prior to the effective date of this section.

SECTION 300. Notwithstanding the provisions of any general or special law to the contrary, the department of environmental management shall employ, where feasible and appropriate, zero pollution discharge technologies, including greywater technologies, so-called, when upgrading sanitary facilities on properties managed by said department.

SECTION 301. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Water Resources Authority shall commence the first phase of construction on facilities necessary to ensure effective wastewater transmission from the southern branch of said authority's service area for the remediation of raw sewage back-ups and overflows that endanger public health. To initiate such first phase, the authority shall commence procurement of contracts for the construction of a deep rock tunnel from Nut Island in the city of Quincy through the town of Weymouth to the residuals processing plant owned by said authority at the Fore River staging area in the city of Quincy. Such procurement process shall commence not later than January 1999 and a notice to proceed with construction shall be issued by the authority at the earliest feasible date thereafter. Any agency, department, office, commission or political subdivision of the commonwealth with regulatory jurisdiction with regard to such procurement or construction shall, notwithstanding any other law to the contrary, cooperate with said authority to assure the attainment of the foregoing schedule and to assure that substantive and procedural regulatory requirements are exercised to achieve the purposes of this section. Any facilities constructed pursuant to the authority of this section shall conform to the plan entitled, "Final Facilities Plan and Environmental Impact Report for Braintree/Weymouth Relief Facilities," EOEA No.4866, dated May, 1993.

SECTION 302. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Water Resources Authority, upon completion of the final development plan by the town of Ashland, may, should the town express a preference to do so, extend the MWRA system to said town through the Bracket Road connector, so-called.

SECTION 303. The suggestion awards board, established pursuant to section 31A of chapter 7 of the General Laws, may make cash awards, pursuant to the provisions of said section 31A and according to the board's published rules and regulations governing the selection process and criteria, to employees of the commonwealth who are instrumental in identifying or implementing ideas which reduce costs or increase revenues for the commonwealth. Such awards may be paid, in a manner to be approved by the secretary of administration and finance, from the operating appropriations of the agencies which realize reduced costs or from monies allocated from the maximization fund to agencies which realize increased revenues as a result of the employee's suggestions or efforts. The amount of any such award shall equal not more than 10 per cent of the reduced costs or increased revenues generated by the employee's suggestion, up to a maximum of \$5,000 to any one individual over the term of this section, unless a larger award shall be approved by the general

Chap. 194

court, and all such awards shall be reported quarterly to the house and senate committees on ways and means detailing the recipient of such award, the recipient's department and title, the amount of the award, the reason for the award and the amount of money saved or realized by the commonwealth. No person shall be eligible to receive such award who is in a position classified as M-V or above, as provided in section 46C of chapter 30 of the General Laws, or is not a state employee. The provisions of this section shall remain in effect until June 30, 2000.

SECTION 304. The North Quabbin Domestic Violence Prevention Program is hereby continued to provide counseling advocacy, legal advocacy, community education and a hotline in the Athol area. The program shall be funded through the department of public health, the department of education and the department of social services. The program shall develop a community-based approach to facilitate the use of direct services and effective community education and prevention work.

SECTION 305. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary, the department of housing and community development may conduct annual verifications of household income levels based upon state tax returns for the purposes of administering the state and federal housing subsidy programs funded in items 7004-0099, 7004-9005, 7004-9011, 7004-9013, 7004-9014, 7004-9019, 7004-9020 and 7004-9024 in section 2; provided, however, that as a condition of eligibility or continued occupancy by an applicant or a tenant, said department may require disclosure of the social security number of an applicant or tenant and members of such applicant's or tenant's household for use in verification of income eligibility. Said department may also consult with the department of revenue, the department of transitional assistance and any other state or federal agency which it deems necessary to conduct such income verification; provided, however, that notwithstanding the provisions of any general or special law to the contrary, such state agencies shall consult and cooperate with said department and furnish any information in the possession of said agencies including, but not limited to, tax returns and applications for public assistance or financial aid. For the purposes of conducting such income verification, the director of housing and community development may enter into an interdepartmental agreement with the commissioner of revenue to utilize the department of revenue's wage reporting and bank match system for the purpose of verifying the income and eligibility of participants in such federally assisted housing programs and that of members of the participants' households.

SECTION 306. The chief justice for administration and management shall develop a paid leave bank election form to be signed by each employee of the trial court who is participating, or eligible to participate, in any paid leave bank administered by the trial court. Such form shall contain, at a minimum: (1) a specific election to be made by each employee indicating whether or not such employee wishes to participate, or continue participating, in such paid leave bank; (2) a statement identifying the maximum number of working days allowable to each employee under the terms of such paid leave bank; and (3) a statement

identifying the right of each employee to purchase long term disability insurance. At or before the next open enrollment period for participation in any paid leave bank or for the purchase of long term disability insurance, whichever is earlier, the chief justice for administration and management shall distribute to each employee a copy of such election form. Each employee shall complete and sign such form, specifically making the election thereunder, and shall further certify that he has read and understands the contents thereof and fully understands the consequences of his election. Nothing in this section shall be construed to affect existing collective bargaining agreements to the extent such agreements contain provisions contrary to the requirements herein.

SECTION 307. Notwithstanding the provisions of any general or special law to the contrary, the criminal justice training council shall charge \$1,800 per recruit for training programs operated by said council for all persons who begin training on or after July 1, 1998. For recruits of municipalities, the state comptroller shall transfer \$1,800 multiplied by the number of such recruits from each municipality from the local aid payments of the municipality in which such recruits shall serve to the Local Aid Fund. Said council shall transmit the required information to the comptroller and the comptroller shall make such transfers in the fiscal quarter immediately following the completion of training.

The comptroller shall certify all such transfers to the house and senate committees on ways and means not later than 30 days after completion of such transfer. Upon completion of training, said training fee of \$1,800 shall be deducted from a recruit's wages in 18 equal monthly installments, unless otherwise negotiated between such recruit and the municipality in which such recruit shall serve. All funds collected from persons other than recruits of municipalities shall be deposited in the general fund.

SECTION 308. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study the training of municipal and state police officers. Said commission shall study and evaluate the current methods of police training and recommend changes for more enhanced, effective and efficient training of police officers by maximizing the use and availability of law enforcement training resources. Said commission shall study the latest technology, including on-line services, so-called, and other forms of media training. Said commission shall explore areas of police training that combine existing resources of the state police academy and the criminal justice training council. Said commission, shall consist of 13 members as follows: the secretary of public safety or his designee, three representatives of the Massachusetts Chiefs of Police Association, a representative from the department of state police, a representative of the Boston police department, the joint chairs of the committee on public safety, who shall serve as co-chairs, a representative from a campus police force from a public institution of higher education, a representative from a college that offers advanced degrees in the field of criminal justice, the director of the Massachusetts criminal justice training council, a representative from the International Brotherhood of Police Officers and a representative from Mass COP, so-called. Said commission shall file a report on the results of its study

Chap. 194

together with recommendations and any legislation necessary to carry out such recommendations, with the clerks of the house of representatives and the senate and the committee on public safety on or before March 1, 1999.

SECTION 309. Notwithstanding the provisions of any general or special law to the contrary, the division of fisheries and wildlife, in consultation with the metropolitan district commission, shall promulgate rules and regulations necessary to establish one-day licenses to fish at the Quabbin Reservoir; provided, however, that the fee for any such license shall be \$5.

SECTION 310. Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission shall ensure that the sponsor of any concert or other event held at the Hatch Shell, so-called, in the city of Boston:

(1) shall provide for the number of detailed police officers to be present on the Hatch Shell site and adjacent property of said commission which is deemed necessary by the colonel of state police or his designee to assure safety and security and the orderly flow of pedestrian and vehicular traffic; and

(2) shall provide for the number of detailed police officers to be present on the streets adjacent to said Hatch Shell site, under the care and control of the city of Boston, which is deemed necessary by the police commissioner of said city or his designee to assure safety and security and the orderly flow of pedestrian and vehicular traffic. The provisions of this section shall not apply to any concert or other event held at the Hatch Shell which is sponsored or co-sponsored by the commonwealth or the metropolitan district commission.

SECTION 311. Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission shall not issue a permit for the use of properties under the control of the metropolitan district commission parks and recreation department pursuant to item 2440-0010 of section 2 including, but not limited to, the Hatch Shell, so-called, in the city of Boston or allow the holding of concerts or other events to a person who owes money for police, security, cleanup or other services to said commission or to any other state or municipal agency for any previous concert or event held at said Hatch Shell.

SECTION 312. Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Water Resources Authority shall reimburse the town of Marblehead an amount not to exceed \$15,000 for chlorination costs incurred in 1995 to remedy total coliform level violations in said town's water systems. The sum set forth in this section shall be in addition to the \$10,000 authorized by chapter 261 of the acts of 1991.

SECTION 313. Notwithstanding the provisions of any general or special law to the contrary, the metropolitan district commission may authorize the North Randolph Little League, so-called, to build, maintain and utilize two additional fields at the recreational land bordering the former Nike site, so-called, in the Blue Hills reservation.

SECTION 314. The John Fitzgerald Kennedy Library and Park Fund established in section 4 of chapter 298 of the acts of 1976 is hereby abolished.

SECTION 315. Notwithstanding any general or special law to the contrary, the comptroller shall transfer any surplus in the John Fitzgerald Kennedy Library and Park Fund established in section 4 of chapter 298 of the acts of 1976 to the general fund.

SECTION 316. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Tax Exemption Escrow Trust Fund. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall, not later than June 30, 1998, transfer to said fund \$162,500,000 from the general fund. Not later than June 30, 1999, said comptroller shall transfer from the fund herein established the amount of \$162,500,000 plus any interest earned on said amount to the general fund.

SECTION 317. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Natural Resource Damages Trust Fund to be expended by the executive office of environmental affairs. Expenditures may be made from said fund, without further appropriation, for the purposes of funding natural resource restoration, replacement or acquisition of equivalent natural resources and other actions related thereto including, but not limited to, natural resource damage assessment, natural resource damage recovery and, if necessary, the costs of personnel and administration of studies or related activities conducted pursuant to the secretary's authority as trustee for natural resources pursuant to section 5 of chapter 21E of the General Laws, sections 23 to 27, inclusive, of chapter 130 of the General Laws, section 42 of chapter 131 of the General Laws, section 1907(f) of Title 42 of the United States Code, section 1321 of Title 33 of the United States Code, section 2706 of Title 33 of the United States Code or any other relevant and appropriate authority.

SECTION 318. Notwithstanding the provisions of any special or general law to the contrary, the division of medical assistance may expend from the medical assistance intergovernmental transfer account, within the Uncompensated Care Trust Fund, \$32,000,000 for the intergovernmental funds transfer component of disproportionate share payments to certain acute care hospitals established in accordance with Title XIX, or any successor federal statute, any regulations promulgated thereunder, the medicaid state plan and the terms and conditions of agreements reached with the division for such transfer payments. Such funds may only be expended for such payments owed during the current fiscal year. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer to the division for deposit into said medical assistance intergovernmental transfer account in an amount specified in an agreement with such entity. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means. All revenues generated pursuant to the provisions of this section shall be credited to said medical assistance intergovernmental transfer account.

SECTION 319. Notwithstanding the provisions of any general or special law to the contrary, funds appropriated in items 4000-0860, 4000-0870, 4000-0880, 4000-0890 and 4000-0891 of section 2 shall be expended in fiscal year 1999 according to the budget neutrality plan, so-called, required by section 9B of chapter 118E of the General Laws. If the commissioner of medical assistance, in the course of said fiscal year, determines that such expenditures exceed the projections established in such plan for fiscal year 1999, or require substantial revisions to projected expenditures in subsequent fiscal years, said commissioner shall, within ten days, notify the secretary of administration and finance, the joint committee on health care and the house and senate committees on ways and means. If said commissioner determines that amounts appropriated in said items are insufficient to meet the purpose of any such item, said commissioner may file a plan to reallocate among such items up to 10 per cent of the amounts appropriated in said items with the clerks of the house and senate. Copies of such reallocation plan shall also be provided to the house and senate committees on ways and means and the executive office for administration and finance. Such reallocation plan shall delineate the following: (a) the amount proposed for transfer from each such item; (b) the amount proposed for transfer to each such item; (c) revised expenditure projections for each such item; and (d) revised member month caseload assumptions and per member per month cost assumptions on which such reallocation plan is based. Such reallocation plan shall be deemed approved if the general court takes no action to disapprove such reallocation plan within 45 days of its filing with said clerks. Once said reallocation plan is thereby approved, the comptroller shall transfer funds among said items as proposed in such reallocation plan. Any subsequent reallocation of funds among said items shall require the explicit approval of the general court in a supplemental appropriation act.

SECTION 320. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, as of June 30, 1999, \$36,952,082 from the general fund to the Children's and Seniors' Health Care Assistance Fund, established by section 2FF of chapter 29 of the General Laws.

SECTION 321. Notwithstanding the provisions of any general or special law to the contrary, federal reimbursements received for administrative expenditures made pursuant to the provisions of items 4000-0300, 4000-0308, 4000-0309, 4000-0310, and 4000-0325 of section 2 shall be credited proportionally to the general fund and to the Children's and Seniors' Health Care Assistance Fund in the same percentages as expenditures are made from each such item from said funds; provided however, that all federal revenues received pursuant to an enhanced rate of reimbursement authorized pursuant to the provision of Title XXI of the federal Social Security Act shall be credited to said Children's and Seniors' Health Care Assistance Fund.

SECTION 322. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance, hereinafter referred to as the division, and the division of health care finance and policy shall take any appropriate action to obtain the

maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interagency agreement between the division and the division of health care finance and policy which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established by section 18 of said chapter 118G or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to said trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of Title XIX of the federal Social Security Act. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interagency agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the uncompensated care pool as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result of actions pursuant to this section shall be deposited in the general fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection and expenditure of funds pursuant to this section.

SECTION 323. Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance shall charge agencies, as hereinafter provided, for workers' compensation costs, including administrative costs, incurred on behalf of the employees of such agencies. The personnel administrator or his designee shall notify agencies within ten days of the effective date of this act as to the change in calculation of workers' compensation chargebacks from fiscal year 1998. The personnel administrator shall notify agencies not later than 14 days after the effective date of this act as to the amount of their estimated workers' compensation costs for the fiscal year beginning July 1, 1998, and shall require all agencies to encumber funds in an amount sufficient to meet the estimated annual charges. The estimated workers' compensation costs for each agency shall be not less than the amount of the actual workers' compensation costs incurred by each such agency during the fiscal year ending June 30, 1998 and may include such additional sums as are deemed necessary by regulations promulgated pursuant to this section. Said personnel administrator shall revise the estimated workers' compensation costs for each agency on the first day of each quarter of the fiscal year commencing July 1, 1998. Within 30 days after the effective date of this act, for any agency that fails to encumber funds sufficient to meet

the annual estimated charges, the comptroller shall encumber funds in an amount sufficient to meet the annual estimated charges on behalf of such agency. Costs to agencies for benefits paid on behalf of their employees shall be allocated as actual expenditures are made. Administrative expenses shall be allocated to agencies based on each agency's per cent of total benefits paid in the prior fiscal year. The comptroller shall charge each agency's workers' compensation costs to the agency's appropriation amount and shall transfer such amount to item 1750-0105 in section 2B for the purposes of workers' compensation paid with respect to public employees for any costs, including administrative costs, incurred during the fiscal year. The human resources division may expend an amount collected for all agencies under this section not to exceed \$45,709,392 for hospital, physician, benefits and other costs, including administrative and personnel costs, without further appropriation. Not later than 14 days after the effective date of this act and on the first day of each succeeding quarter during the fiscal year, said division shall bill each agency for 25 per cent of such agency's annual estimated workers' compensation costs. Each agency shall be credited or billed for any differences between the previous quarter's estimated costs and actual costs incurred by such agency. The personnel administrator may establish regulations and procedures to implement the provisions of this section.

SECTION 324. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer any surplus in the Re-employment and Job Placement Fund to the general fund.

SECTION 325. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer any surplus or deficit in the Commonwealth Economic Development Fund to the general fund.

SECTION 326. Notwithstanding the provisions of any general or special law to the contrary, items 4130-3200, 4130-3700, 4400-1000, 4400-1100, 4400-9999, 4401-1000, 4403-2000, 4403-2110 and 4403-2120 in section 2 shall be charged to the Transitional Aid to Needy Families Fund, according to the approximate percentage established in the fund split, so-called, for each such item. Such approximate percentage so applied to each such item may range not more than five percentage points above or below such approximation for the purposes of achieving maintenance of historic expenditures, so-called, minimizing federal interference with the provisions of state law, and maximizing the effective use of federal funds consistent with the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, so-called, and chapter 5 of the acts of 1995. Such percentage so applied shall be based upon certification to the comptroller by the department of transitional assistance that such percentage reflects the appropriate distribution of actual expenditures necessary to achieve said purposes. Such percentage so charged shall be subject to the approval of the secretary of administration and finance. Expenditures not charged to the Transitional Aid to Needy Families Fund shall be charged by the comptroller to the general fund for each such item unless specified otherwise. The department shall report quarterly to the house and senate committees on ways and means on the expenditures

Chap. 194

charged to each such fund and the reasons therefor including, but not limited to, eligibility requirements established by said federal act and said chapter 5 and the relationship between the caseload distribution and costs. Such reports shall be filed not less than 30 days following the close of each state fiscal quarter.

SECTION 327. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, \$91,874,223 from the Transitional Aid to Needy Families Fund to the Child Care Fund not later than June 30, 1999.

SECTION 328. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall transfer, without further appropriation, \$45,937,112 from the Transitional Aid to Needy Families Fund to the Social Services Program Fund or to said Social Services Program Fund via the Child Care Fund, not later than June 30, 1999.

SECTION 329. The director of housing and community development and the director of economic development may carry out an interagency agreement for the expenditure of \$750,000 of previously transferred funds from the Oil Overcharge Trust Fund, so-called, for the one and two person program, so-called, for elders and families whose income is in excess of 150 per cent of the federal poverty level, but not more than 175 per cent of said level, and for a program of supplemental energy assistance for low-income elders and families to be administered in accordance with the Low Income Home Energy Assistance Act of 1981, as amended; provided, however, that said amount may be expended from said fund for the fiscal year ending June 30, 1999 without further appropriation; provided further, that unexpended funds from an interagency agreement between the director of housing and community development and the director of economic development for the fiscal year ending June 30, 1998 shall be carried forward at and retained by the division of housing and community development for such programs for low-income elders and families; provided further, that notwithstanding the provisions of any general or special law to the contrary, funds expended for such one and two person program and for such program of supplemental energy assistance for low-income elders and families shall not be subject to federal reimbursement; and provided further, that funds provided through interagency agreements authorized herein for supplemental energy assistance for low-income elders and families shall not constitute an ongoing obligation of the commonwealth.

SECTION 330. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Asbestos Cost Recovery Fund. Notwithstanding the provisions of any general or special law to the contrary, all sums awarded or received by the commonwealth, after the payment of fees and expenses, as a result of settlement, trial or judgment from Suffolk Superior Court No. 90-3791-A, Commonwealth of Massachusetts v. Owens Corning Fiberglass, et al., and other actions brought to recover damages relating to asbestos-containing materials in buildings owned or operated by the commonwealth, or received as dividend payments by the commonwealth on account of the bankruptcy of a manufacturer, seller or distributor of asbestos-containing materials in buildings owned or

operated by the commonwealth, shall be segregated and deemed to be held in said fund. The division of capital asset management and maintenance shall develop a plan for the orderly expenditure of such sums as are received by the fund for the purposes of encapsulation, removal of asbestos and costs related thereto. The plan shall contain provisions for emergencies, the short-term and long-term control of asbestos in buildings owned or operated by the commonwealth and the removal and disposition of asbestos-containing materials located in such buildings. Any funds deposited in said fund shall not revert to the General Fund but shall remain available for the purposes provided herein. Any funds deposited as described above may be expended by the division of capital asset management and maintenance, subject to appropriation, consistent with the purposes of this section.

SECTION 331. Notwithstanding the provisions of any special or general law to the contrary, the division of medical assistance shall expend from the medical assistance intergovernmental transfer account, within the Uncompensated Care Trust Fund, \$5,000,000 for the intergovernmental funds transfer component of Medicaid payments to the University of Massachusetts Memorial Hospital for hospital services provided pursuant to the terms and conditions of the contract between the division and said hospital. Programs funded pursuant to this section shall not create recurring liabilities to the commonwealth in future fiscal years. Said medical assistance intergovernmental transfer account shall be reimbursed \$2,500,000 by the University of Massachusetts medical school pursuant to the provisions of this section. The University of Massachusetts medical school shall submit by December 2, 1998, to the house and senate committees on ways and means, a report detailing the programs funded from revenue associated with this section.

SECTION 332. Notwithstanding the provisions of any special or general law to the contrary, the division of medical assistance may expend from the medical assistance intergovernmental transfer account, within the Uncompensated Care Trust, an amount not to exceed \$190,000,000 for a program of MassHealth payments, so-called, to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers and established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the state Medicaid plan. Such funds may be expended only for services rendered during fiscal year 1999. Such expenditures shall reduce payments from the uncompensated care pool, established pursuant to the provisions of section 18 of chapter 118G of the General Laws, to such entities by a comparable amount. Said division shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures from this item shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for expenditure by this section shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other nonfederal public

Chap. 194

funds. The Boston Public Health Commission and the Cambridge Public Health Commission shall transfer to said medical assistance intergovernmental transfer account not less than one-half of the gross amounts, so-called, made by the division under managed care contracts with said commissions.

SECTION 333. Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance may reduce the appropriations made in section 2 by such amounts as said secretary shall deem appropriate to reflect the reduced cost of electricity which has or will result from the implementation of chapter 164 of the acts of 1997. Said secretary shall submit to the house and senate committees on ways and means a schedule of reductions by item of appropriation prior to the implementation of such reduction.

SECTION 334. Notwithstanding the provisions of any general or special law to the contrary, funds in the Commonwealth Sewer Rate Relief Fund, established by section 2Z of chapter 29 of the General Laws, shall be available to mitigate sewer rate increases due to debt service obligations created by issuing eligible indebtedness. For the purposes of this section, eligible indebtedness shall mean debt issued on or after January 1, 1990, which has a final date of maturity greater than five years after the date of issuance and which is incurred, wholly or in substantial part, to finance or refinance the costs of planning, design, or construction of any water pollution abatement project, or part thereof, required to be constructed to meet the provisions of the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq., and sections 26 to 53, inclusive, of chapter 21 of the General Laws, or any wastewater collection or transportation project related thereto; provided, however, that eligible indebtedness shall not include any indebtedness for which the issuer has received assistance provided from state grants; provided further, that notwithstanding any provisions of this section to the contrary, eligible indebtedness shall include indebtedness incurred to finance the metrowest water supply tunnel, so-called; provided further, that eligible indebtedness shall include indebtedness incurred pursuant to loan agreements under the provisions of chapter 275 of the acts of 1989 which exceeded \$50,000,000 by June 30, 1995 and the debt service attributable thereto for any year for purposes of this section shall be the net obligation borne by the issuer after application of any credits, subsidies, or assistance, however characterized, provided under the provisions of the aforementioned laws; and provided, further, that no issuer, which shall be defined as any city, town, district, commission, agency, authority, board or other instrumentality of the commonwealth or any of its political subdivisions, which is responsible for the ownership or operation of wastewater treatment projects, and is authorized to finance all or any part of the cost thereof through the issuance of eligible indebtedness, shall receive relief authorized herein in excess of 20 per cent of its annual debt service obligations due to eligible indebtedness. The division of local services of the department of revenue, in consultation with the department of environmental protection, shall develop guidelines to certify an issuer's eligible indebtedness and shall create a process to equitably distribute funds to eligible issuers, in

Chap. 194

order to mitigate extraordinary increases in sewer costs; and provided further, that funds disbursed in fiscal year 1999 shall be disbursed on or before March 31, 1999. The board, office or commission responsible for setting sewer charges in each city, town, district, or commission that either receives aid itself or is a member of a regional entity that receives aid pursuant to the provisions of this section shall certify to said division of local services that it has reduced sewer charges to reflect its share of any such aid.

SECTION 335. The comptroller shall transfer any unexpended balance in the Freight Rail Fund to the general fund.

SECTION 336. The comptroller shall transfer any unexpended balance in the Passenger Rail Transportation Fund to the general fund.

SECTION 337. Notwithstanding the provisions of any general or special law to the contrary, the state treasurer may make payments pursuant to section 38C of chapter 29 of the General Laws from items 0699-0015 and 0699-9100; provided, however, that such payments shall pertain to the bonds, notes or other obligations authorized to be paid from each item.

SECTION 338. Notwithstanding the provisions of any general or special law to the contrary, the comptroller may transfer from the following items in section 2 such amounts as otherwise would be unexpended on June 30, 1999, to those of the following said items which otherwise would have insufficient amounts to meet debt service payments for the fiscal year ending June 30, 1999; provided, however, that each amount transferred shall be charged to such funds as specified in the item to which such amount is so transferred: 0699-0015 and 0699-9100.

SECTION 339. Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share adjustment payments to such qualifying mental health and public health facilities pursuant to relevant division of health care finance and policy regulations and the related Title XIX state plan amendment submitted by the division of medical assistance to the Health Care Financing Administration. The division of medical assistance, the department of public health, and the department of mental health may expend amounts transferred to it from such separate account within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the general fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds pursuant to this section.

SECTION 340. For hospital fiscal year 1999, the private sector liability of purchasers and third party payers to the Uncompensated Care Trust Fund, established pursuant to section 18 of chapter 118G of the General Laws, shall be \$315,000,000. For state fiscal year 1999, notwithstanding the provisions of any general or special law to the contrary, \$30,000,000 generated by federal financial participation made available under Title XIX of the Social Security Act to reimburse the costs of said trust fund for disproportionate share hospitals shall be deposited into said trust fund.

SECTION 341. Notwithstanding the provisions of any general or special law to the contrary, the capital component of prospective rates of payment for nursing facility services established by the division of health care finance and policy for rate year 1999 may be developed using the costs of any year or years which said division, at its discretion and after consultation with representatives of nursing facilities and after public hearing, shall determine appropriate.

SECTION 342. Notwithstanding the provisions of any general or special law to the contrary, the division of information technology shall enter into an interagency agreement with the office of jury commissioner for the compilation of numbered resident lists and files as intended by sections 10 and 11 of chapter 234A which the jury commissioner shall use to create a master juror list which shall then be used to test a pilot project commencing in fiscal year 1999, the provisions of said chapter 234A notwithstanding. Said division shall eliminate duplicate records and compile said numbered resident lists and files using as its source all resident data contained in the central voter registry, the registry of motor vehicles list of drivers and identification card holders, the list of recipients receiving benefits of programs offered by the department of transitional assistance, the list of tax filers with the department of revenue, persons applying for or receiving Medicaid from the division of medical assistance, or unemployment compensation from the department of employment and training and lists from other state agencies and nongovernmental sources as deemed necessary by the jury commissioner in order to insure the most diverse jury pool possible. Notwithstanding privacy laws or practices to the contrary, said agencies shall within 30 days from the date of request, for all residents 17 years of age or older, provide the division of information technology with lists containing names, mailing addresses, dates of birth, gender designations, race or ethnicity data and social security numbers and the date of the recording of each record by each agency, if available, and the division of information technology and the office of jury commissioner shall not reveal the source of any names contained in such records, except as necessary for purposes of the study by the Massachusetts Institute for Social and Economic Research. The division of information technology, the office of jury commissioner and the Massachusetts Institute for Social and Economic Research shall use data from such lists solely for juror summoning purposes and for studying the results thereof, and their use of such lists for any other eligibility, investigation, regulation or monitoring is expressly prohibited. Said division shall compile such numbered lists and files and provide them to the office of jury commissioner on or before February 1, 1999 in a format consistent

with the office of jury commissioner's requirements. Upon receipt, the jury commissioner shall prepare such list for the summoning of jurors and for the testing, as a pilot project, of said list with a focus towards expanding such pilot project statewide as the method of summoning jurors in the commonwealth. In order to comply with the provisions of this section, the office of jury commissioner shall seek all appropriate approvals from federal officials to permit the jury commissioner to obtain the names and addresses of persons receiving Medicaid, unemployment compensation or benefits through the department of transitional assistance. The jury commissioner shall file a report with the secretary of administration and finance and the senate and house committees on ways and means on or before February 28, 1999 certifying that: (1) the numbered resident lists and files have been received and have been prepared for the summoning of jurors, and (2) said office of jury commissioner has begun or is ready to begin the testing of said list as a pilot project. Said report shall outline which agency lists were used to create the master juror list, and shall certify that the evaluation model created by the Massachusetts Institute for Social Economic Research shall be used to assess the results of said pilot project.

SECTION 343. Notwithstanding the provisions of any general or special law to the contrary, if the capital costs incurred under any of the previous department of mental health replacement units contracts, so-called, with Berkshire Medical Center in the city of Pittsfield, Cambridge Hospital in the city of Cambridge, New England Deaconess Hospital in the city of Boston, or Providence Hospital in the city of Holyoke, are not negotiated and paid pursuant to the terms of the interdepartmental service agreement for the joint purchase of certain mental health services between the department of mental health and the division of medical assistance, then the department of mental health may negotiate and pay capital costs to the entity directly. Any payment made by the department of mental health pursuant to this section or by the division of medical assistance or its contractor pursuant to the terms of the interdepartmental service agreement shall be subject to the following: (i) if the entity sells or otherwise transfers a capital asset associated with the replacement unit contract and the asset shall not be used by the transferee for similar or like public purposes, then the entity shall pay to the commonwealth an amount equal to the gain, if any, attributable to any accelerated depreciation costs paid by the department of mental health; or (ii) if the entity ceases to use any capital asset associated with the replacement unit contract for such public or similar public purposes for any other reason attributable to the entity, then the entity shall repay to the commonwealth the accelerated depreciation costs paid by the department of mental health.

SECTION 344. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a mental retardation advisory council consisting of 15 persons to be appointed by the secretary of health and human services, with the approval of the governor, five of whom shall be citizens who are members of the department's mental retardation citizens' advisory committees across the state, and of the remaining ten, at least five shall be appointed to represent one of the following professions and groups: state level

Chap. 194

medical, psychological, nursing, educational, social work, occupational therapy, bar associations, state level association for mental retardation, industrial and labor groups and the clergy; provided, however, that not fewer than two of the members shall be individuals eligible for services by the department. Upon the expiration of the term of office of any member, his successor shall be appointed for a term of three years. No member shall be appointed to serve more than two consecutive three-year terms. The council shall elect a chairman annually. The council shall serve without compensation, but each member shall be reimbursed by the commonwealth for all expenses necessarily incurred in the performance of his official duties.

Said advisory council shall have the following duties:

- (a) to advise the commissioner on policy, program development and priorities of need in the commonwealth for comprehensive programs in mental retardation;
- (b) to participate with the department in holding a regular series of public hearings throughout the commonwealth to obtain the views of the citizens concerning the programs of the department and the needs of the people in mental retardation services;
- (c) to review the annual plans and the proposed annual budget of the department, and to make recommendations to the commissioner in regard thereto; and
- (d) to hold at least three meetings per year and to convene special meetings at the call of the chairman of the council, a majority of the council, or the commissioner.

SECTION 345. Notwithstanding the provisions of any general or special law to the contrary, the commissioners of mental retardation, mental health, the disabled persons protection commission and the Massachusetts rehabilitation commission shall report serious cases of abuse which constitute a felony under the General Laws including, but not limited to, all cases in which a person with a disability has died, has been the victim of a violation of sections 13F, 13H, 13K, 22 or 24 of chapter 265 of the General Laws, section 30 of chapter 266 of the General Laws, section 35 of chapter 272 of the General Laws, or section three or seven of chapter 272 of the General Laws, has suffered serious bodily injury as the result of a pattern of repetitive actions by a caretaker and all other matters which are reported to departmental personnel by mandated reporters or other employees who have contact with disabled persons in residential, day or other settings to the special investigative unit established under paragraph (i) of section 3 of chapter 19C of the General Laws which shall conduct an initial investigation and, pursuant to the provisions of section four of said chapter 19C, immediately refer such cases to the appropriate office of the district attorney. No department, agency or commission as described in this section shall be designated as the primary investigator in such felony abuse cases.

SECTION 346. There shall be created within the office of the chief administrative justice of the trial court an emergency task force on indigency verification. Such task force shall consist of the chief justice or his designee, the chief of the district court department or his designee, the chief counsel of the committee for public counsel services, the commissioner of probation and the president of the Massachusetts District Attorneys Association.

The chief justice of the trial court shall chair said task force. Within 60 days of the effective date of this act such task force shall file with the house and senate committees on ways and means a report recommending procedures establishing an indigency verification program for those persons entitled to representation under Supreme Judicial Rule 3:10.

SECTION 347. Notwithstanding the provisions of any general or special law to the contrary, if an amount earmarked within any item of section two is insufficient to accommodate the full value of the rate increases provided under item 1599-6896 of section two of chapter 43 of the acts of 1997 and item 1599-6897 of this act, such earmark may be increased to accommodate such rate increases, subject to the approval of the secretary of administration and finance; provided, however, that in no event shall the amount of any earmark in section two of this act be decreased. The secretary of administration and finance shall report to the house and senate committees on ways and means on all such increases not more than 30 days after such increases have been approved.

SECTION 348. Notwithstanding the provisions of any general or special law to the contrary, the comptroller is hereby authorized to enter into contracts with private vendors to identify and pursue cost avoidance opportunities for programs of the commonwealth and to enter into interdepartmental service agreements with state agencies, as applicable, for said purpose; provided, however, that payments to private vendors on account of such programs shall be made from actual cost savings as certified in writing to the house and senate committees on ways and means by the comptroller and the budget director that are attributable to such cost avoidance projects; provided further, that the comptroller may establish such procedures, in consultation with the budget director and the affected departments, as he deems appropriate and necessary to accomplish the purposes of this section; and provided further, that nothing herein shall be construed to permit the comptroller or the budget director to establish any accounts without prior statutory approval. The budget director shall report on a quarterly basis to the house and senate committees on ways and means the status of all cost avoidance opportunities which are undertaken pursuant to the provisions of this section. The comptroller shall report on such programs as a part of his annual report pursuant to section 12 of chapter 7A of the General Laws.

SECTION 349. Notwithstanding the provisions of any general or special law to the contrary, each city or town shall establish a wetlands protection fund for the deposit of all fees paid to the city or town under section 40 of chapter 131 of the General Laws. The fund shall be expended by the conservation commission without further appropriation for the purpose of defraying the costs of administering and enforcing said section 40 of said chapter 131, but only with the written approval of the mayor in cities, or city manager in plan E cities, or the selectmen in towns, or the town manager in towns which have adopted the town manager form of government.

SECTION 350. The department of environmental management shall designate the

walking track located at the Quinsigamond state park in the city of Worcester as the "State Representative Andrew Collaro walking track" and the tennis courts located in said state park shall be designated as the "Senator Daniel J. Foley tennis courts".

SECTION 351. Notwithstanding the provisions of sections 2A and 38 of chapter 59 of the General Laws, the board of assessors of the town of Provincetown may, for the fiscal year beginning July 1, 1998, determine the valuation of property destroyed by the fire of February 10, 1998 immediately subsequent to said fire for the purpose of granting abatements applied for under section 59 of said chapter 59. Any abatements granted hereunder shall not become eligible for reimbursement by the commonwealth.

SECTION 352. The bridge on Long Pond road over state highway route 6 in the town of Wellfleet shall be designated and known as the Leonard A. Pierce, Sr. memorial bridge in memory of Leonard A. Pierce, Sr. and his many contributions to the town of Wellfleet. The department of highways shall erect and maintain suitable markers bearing said designation in compliance with the standards of said department.

SECTION 353. The state superintendent of state office buildings, in cooperation with the Massachusetts College of Art, shall install an appropriate plaque identifying the artist Richard Andrew as the artist responsible for the series of murals located and displayed on the third floor of the state house referred to as the lobby of the house of representatives chamber.

SECTION 354. The commissioner of veterans' services shall promulgate rules and regulations governing interment at state veteran cemeteries; provided, however, that such rules and regulations shall limit those eligible for interment to veterans, as defined by the federal Veterans' Administration their spouses, unremarried surviving spouses and dependent children.

SECTION 355. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of veterans' services may establish a training program for veterans agents and directors of veterans' services in cities and towns of the commonwealth. The purpose of such training program shall be to maximize federal assistance available for veterans and to assure that such agents and directors receive uniform instruction on providing veterans and dependents with advice relative to procurement of state, federal and local benefits to which they are entitled, including employment, education, health care, retirement and other veterans' benefits. The subject matter of such training program shall include benefits available under chapter 115 of the General Laws and alternative resources, including those which are partially or wholly subsidized by the federal government, such as Medicaid, Supplemental Security Income and Social Security Disability benefits, as well as federal pension and compensation entitlements. The commissioner is hereby authorized and directed to promulgate regulations for said training program. Upon successful participation by such veterans' agent or director of veterans' services in such training program, the costs of such training program incurred by the several cities and towns shall be paid by the commonwealth on or before November 10 in the year after such expenditures.

SECTION 356. Notwithstanding the provisions of any general or special law to the contrary the division of health care finance and policy shall evaluate and, if warranted, adjust the rates established for adult day health services, so-called. In evaluating such rates, the division's considerations shall include, but not be limited to, the number of persons in adult day health programs diagnosed with Alzheimer's disease or dementia, the special care needs of such persons, any additional program costs required to provide care for such persons and the proportion of such persons to the total number of persons in a particular adult day health program as compared to the proportion of such persons to the total number of persons in all adult day health programs. Such evaluation and, if warranted, rate adjustment shall be completed according to the established procedures of the division on or before November 1, 1998.

SECTION 357. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study the provision of adult day services in the commonwealth. Said study shall include, but not be limited to, evaluating the quality and availability of adult day services in the commonwealth, licensure or regulations, medicaid reimbursement and the benefits and cost effectiveness of these programs. Said commission shall consist of 13 members: the secretary of the executive office of health and human services, or his or her designee, who shall serve as chair; the secretary of the executive office of elder affairs, or his designee; the commissioner of the department of public health, or his designee; the commissioner of the division of health care finance and policy, or his designee, three members selected by the Massachusetts Association of Adult Day Health Services, two members selected by the Massachusetts Councils on Aging, one of whom shall be a provider of social day programs, one member selected by the Alzheimer's Association of Eastern Massachusetts, one member of the Massachusetts Home Care Association, and one member of the Home and Health Care Association of Massachusetts. Said commission shall report the results of said study together with its recommendations, if any, and draft legislation necessary to carry out such recommendations by filing the same with the joint committee on human services and elderly affairs and the house and senate committees on ways and means on or before March 31, 1999.

SECTION 358. Notwithstanding the provisions of any general or special law to the contrary, the office of consumer affairs shall collect on or before January 1, 1999 any and all prior year's assessments owed to the commonwealth for services rendered by the attorney general on behalf of the utility and insurance industries. After July 1, 1998 any and all assessments, on behalf of the attorney general, shall be billed and collected prior to the end of each fiscal year; provided, however, that the comptroller shall certify in writing to the secretary of administration and finance and the senate and house committees on ways and means that such assessments have been collected.

SECTION 359. (a) Notwithstanding the provisions of any general or special law to the contrary, there is hereby established the Massachusetts performance enhancement program, which shall provide the opportunity for designated agencies to improve their manage-

Chap. 194

ment systems and enhance their performance by streamlining services, reducing paperwork and analyzing and reviewing policies and procedures including, but not limited to, fiscal and human resources management, procurement, technology and facilities operation and maintenance.

(b) Said program shall be implemented by a commission, which shall be jointly chaired by the secretary of administration and finance and the comptroller. There shall be seven additional members of the commission who shall be appointed by the governor. Such members shall include the chairperson of the Massachusetts Taxpayers Foundation or his designee and six persons to be appointed by the governor, one of whom shall be a representative from business and industry to be selected from three nominees provided by the Massachusetts Business Roundtable; one of whom shall be a representative from organized labor, to be selected from three nominees provided by the Massachusetts State Labor Council, AFL-CIO; one of whom shall be a faculty member from a graduate school of public administration or public management at an institution of higher education located in the commonwealth and three of whom shall be appointed after consultation with the secretary of administration and finance and the comptroller. The division of capital asset management and any agency within the executive office of health and human services, to be selected by the chairs of the commission in consultation with the secretary of health and human services, shall serve as and be hereinafter collectively referred to as the designated agencies.

(c) In evaluating each designated agency, the commission shall work with a team of not less than six and not more than ten employees from each such agency, which shall include an equal number of management employees and nonsupervisory, nonmanagement employees. The management employee members of each designated agency team shall be selected by the administrative head of the designated agency on or before September 1, 1998. The nonsupervisory, nonmanagement employee members shall be selected either by a vote of the nonsupervisory, nonmanagement employees in the designated agency on or before August 31, 1998 or, if no such selection is made by said date, then by the joint chairpersons of the commission on September 1, 1998. Three members of the commission shall serve on each relevant designated agency team. Each team shall evaluate each designated agency with respect to effectiveness and efficiency of human resource management policies and practices used by the agency including, but not limited to, recruitment, retention and uniformity among job descriptions in order to identify specific projects that shall improve such designated agency's performance; provided, however, that the commission and its projects shall not interfere with or abrogate any existing contractual obligations or collective bargaining agreements. Such agency teams may hire consultants to help them achieve their goals and objectives. Each designated agency shall also provide necessary assistance to its agency team and the commission for the performance of their duties.

(d) Each designated agency team shall submit to the commission for approval a preliminary work plan that includes a preliminary agency evaluation, spending plan, program

design and specific project proposals on or before October 1, 1998. No funds appropriated for use by said commission shall be allocated to the designated agency teams until such time as said work plan has been submitted and approved by said commission.

(e) The commission, in consultation with the designated agency team, shall, on or before January 1, 1999, submit to the house and senate committees on ways and means and the joint committee on state administration an interim report and tentative recommendations and shall, on or before June 30, 1999, submit to said committee a final report concerning each designated agency. The interim and final reports shall analyze and provide recommendations and implementation plans concerning methods for maximizing or improving human resource management policies and practices and generating cost savings; provided, however, that such recommendations and implementation plans shall not focus primarily on agency staffing levels. Such reports shall also demonstrate the results of any ongoing or completed projects undertaken by said teams or the full commission. Said reports shall include benchmarks for measuring the agencies' performance before and after the implementation of any such projects by such teams or the full commission. Any cost savings realized by an agency through implementation of the performance enhancement program shall be placed in a retained revenue account held by such agency for one-time expenditures.

SECTION 360. The chief information officer, designated in section 4A of chapter 7 of the General Laws, shall coordinate and oversee the year 2000 compliance efforts of the executive departments. All executive departments shall cooperate to the fullest extent with said chief information officer and shall provide him, or his designees, with such information and reports as he may require. Said chief information officer shall also review technology budgets for the year 2000 compliance and remediation efforts of executive departments, regardless of whether such efforts are funded with capital, operating, federal or trust funds. All information technology equipment purchases for the year 2000-related projects shall be made in consultation with the governor's advisory committee on information technology in conjunction with said chief information officer. Said chief information officer may also establish such year 2000 compliance and validation standards as he deems appropriate and shall adopt said standards not later than August 1, 1998.

The information technology division of the executive office of administration and finance shall report quarterly to the house and senate committees on science and technology and to the house and senate committees on ways and means the progress being made to address the year 2000 problem including, but not limited to, the amount expended on equipment, consultants and personnel by all departments and the degree to which funds expended for year 2000-related projects are appropriate and not duplicative of expenditures made with funds from other sources.

SECTION 361. Notwithstanding the provisions of any general or special law to the contrary, the department of housing and community development shall prepare a report which details the total amount of funding expended from all state, federal, municipal, and other sources for lead paint abatement; provided, however, that such report shall include, but

Chap. 194

not be limited to, the amount of such expenditures by postal zip code, so-called, the amount of such expenditures by municipality and an assessment of the unmet need for funding from all sources by municipality. Such report shall be filed annually, not later than February 3, with the joint committee on housing and urban development and the house and senate committees on ways and means.

SECTION 362. The MassJobs Council shall submit a comprehensive report on the statewide implementation of state and federal welfare reform which shall consist of individual strategic plans from the 16 regional employment boards outlining strategies for local level resource allocation. Such plans shall list all resources available in each service delivery area that may be used to target transitional aid to families with dependent children recipients who will lose cash assistance benefits in fiscal year 1999 pursuant to subsection (f) of section 110 of chapter 5 of the acts of 1995 including, but not limited to, federal job training funds available under the Job Training Partnership Act, federal welfare-to-work grants available under the federal Balanced Budget Act of 1997 and state training funds available under the department of transitional assistance. Such plans shall include a list of all programs to be administered locally as part of the federal welfare-to-work grants as authorized by the federal Balanced Budget Act of 1997 and a corresponding list of all employment and training vendors to administer such programs. Such plans shall assure that state programs are not duplicative of federal programs. Such plans shall include the estimated number of recipients of transitional aid to families with dependent children who will lose benefits in each service delivery area, as defined by the federal government, the total resources available for job training related services in each service delivery area and the resulting resources per such recipient. Such plans shall include fiscal year 1999 operating budgets for each regional employment board with projected expenditures and projected revenues for all state, federal, local and private sector revenue sources. Such plans shall assess the transportation needs of the recipients of transitional aid to families with dependent children and shall include recommendations for improving local level transportation systems for said recipients. Said council shall submit such report to the house and senate committees on ways and means on or before December 1, 1998.

SECTION 363. The secretary of health and human services shall report to the house and senate committees on ways and means and the committee on human services and elderly affairs not later than December 31, 1998 on the costs and policy implications of adopting the provisions of section 115(d)(1)(A) of Public Law 104-193 of 1996 including, but not limited to, making food stamps and transitional aid to families with dependent children benefits available to persons released from incarceration in a state or county facility for drug felonies.

SECTION 364. The executive office of health and human services in collaboration with the department of education shall conduct a statewide study of residential placement services for children by region, including Cape Cod; provided, however, that such study include an analysis of the children currently in residential treatment, a review of current funding strategies, a review of diagnostic criteria for deciding to access residential place-

ment, a review of discharge criteria and identification of common ground on which to build mutual agreements; and provided further, that such study shall include recommendations on a more efficient use of public dollars, a more timely response to service needs and mutual agreements among agencies to standardize cost sharing, intake and discharge criteria.

SECTION 365. The Children's Trust Fund, established in section 50 of chapter 10 of the General Laws, shall expend not more than \$150,000 from item 4130-0002 of section 2 for a project to collect statewide data on the quality of child care. Such project shall include a general quality survey to be sent to every early care and education environment, including center-based care, family child care, informal child care and school-age and after-school settings. Such survey shall gather data on issues including, but not limited to, program subsidies, licensing, regulation, accreditation, tuition rates, provider compensation and program waiting lists. Such project shall also include the observation of a random sampling of early care and education settings for the purpose of applying the environmental child rating scale ECERS, so-called. Said scale shall be used for the evaluation of issues including, but not limited to, the appropriateness of organizational systems, family support and parent-provider interactions, linkages to other community resources, continuity of care for individual children considering the programs in which a single child participates, provider turnover and developmentally appropriate practices.

SECTION 366. There is hereby established a task force consisting of members of the joint committee on human services and elderly affairs and the joint committee on education, arts and humanities for the purpose of evaluating and making recommendations relative to the reimbursement of contracted child care services. Said task force shall consist of not fewer than eight members of the house of representatives and six members of the senate. The speaker of the house of representatives and the president of the senate shall appoint not fewer than two members from their respective chambers from each such committee. Said speaker and said president shall also designate one member from their respective chambers to co-chair said task force.

The "request for response" known as the RFR that was issued by the office of child care services on April 22, 1998, or any request for response issued as a successor to said RFR, shall not be implemented until said task force:

- evaluates whether the underlying data or information used in the development of said RFR is reasonably supportive of the rate levels and rate structure proposed by said RFR;

- evaluates whether additional data or information is necessary to support changes to the child care reimbursement system;

- quantifies the relationship between changes in the reimbursement system proposed by said RFR and the expansion of the child care slots resulting therefrom;

- considers whether said RFR (1) achieves rate equity or parity among providers; (2) recognizes unique, extraordinary or other special costs that warrant the reimbursement of providers in the provision of child care services; (3) supports the ability of child care provid-

ers to maintain capacity, improve quality, and retain staff; and (4) evaluates the reasonableness of any geographic regions used for said rate system.

Said task force shall recommend improvements to said RFR, including, if necessary, major restructuring of the RFR. Notwithstanding the provisions of any general or special law to the contrary, the office of child care services shall conduct a public hearing on any proposed RFR that incorporates the recommendations made by said task force pursuant to the provisions of this section and no such RFR shall be officially issued prior to the conduct of such hearing. Said office shall report to the house and senate committees on ways and means not later than September 1, 1998 on the fiscal year 1999 fiscal impact of the moratorium on said RFR that is imposed by this section. No contract with a child care provider made effective in fiscal year 1999 shall be based upon said RFR in said fiscal year; provided further, that reimbursement rates for child care shall be at least equal to the rates of reimbursement for each provider of each prototype of child care provided during fiscal year 1998 and that for family child care systems, any increased reimbursement for family child care providers shall be funded in the rate of reimbursement for said system.

Said task force shall consult with representatives child care providers in each prototype community, state and local government agencies and community-based organizations that are involved in the oversight, financing or delivery of child care services. The office of child care services shall provide any information and data requests made by said task force. The report of said task force shall be filed with the clerk of the house of representatives and the clerk of the senate not later than December 31, 1998.

SECTION 367. Notwithstanding the provisions of any general or special law to the contrary, the department of education shall submit a report detailing the progress of the following items in section 2 towards the goals of education reform: 7061-9400, 7061-9615, 7061-9620 and 7061-9621. Such report shall include, but not be limited to, a description of the purpose of any grants that are to be used within said items, the names and the amounts of the grants, whether the grants are competitive and whether there is any local match to such grants. Within the description of the purpose of such grants shall be included a statement which identifies the substantive contribution toward the goals of education reform achieved by such grants. Such report shall also include performance goals and a completion timeline for each project relating to said items and shall also include a detailed spending plan for the funds appropriated within said items, including but not limited to, funds for the purpose of accounting and posting, printing, contracting and compensation and hardware and software purchases. Such report shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities not later than January 20, 1999.

SECTION 368. Notwithstanding the provisions of any general or special law to the contrary, the department of education shall collaborate with the division of local services of the department of revenue to complete audits of city, town and regional school district spending of chapter 70 school aid, so-called, pursuant to the proposed format and scope in

executive order 393; provided, that all reports submitted by said department and said division shall be filed jointly and shall be standardized in structure, organization, approach and subject content; provided further, that each said report shall include a study of the impact of unanticipated growth in enrollments and the costs of special education on municipal education budgets, where applicable, including but not limited to the impact of said costs on other areas of appropriation within the municipal budget; provided further, that said department shall make available to said division information collected through its information management system, so-called, to assist in the tracking of individual student data and Massachusetts comprehensive assessment system test results; and provided further, that said reports shall be made available to the house and senate committees on ways and means, and the joint committee on education, arts, and the humanities, upon their completion.

SECTION 369. A special legislative commission shall be established to explore funding sources for public education in the commonwealth, including but not limited to, federal grants, municipal revenues, and state aid to cities, towns, regional school districts, counties maintaining agricultural schools and independent vocational schools. The report of said commission shall include, but not be limited to, identifying for each public school district and for public schools as a whole, for fiscal year 1993 to fiscal year 2000: (1) the level of actual or projected operating support from state, municipal, and federal revenue sources; (2) changes in per student expenditures and the percentage of municipal spending on public education; (3) a discussion of the impact of growth in enrollment and costs of special education on school district budgets; (4) projected operating support, including state assistance, needed by public schools after fiscal year 2000, including, but not limited to, alternatives to the education reform funding formula established by chapter 70 of the General Laws; (5) the percentage of total education spending, by district, spent on the routine maintenance of a school district's capital assets, and a measure of the extent to which such expenditures are sufficient to maintain the useful life of the physical plant and avoid the accumulation of deferred maintenance costs; and (6) any other fiscal, legal or public policy matters that impact the financial support for said public school districts. The commission shall consist of 11 members, three of whom shall be appointed by the speaker of the house of representatives, one of whom shall be appointed by the house minority leader, three of whom shall be appointed by the senate president, and one of whom shall be appointed by the senate minority leader, and three persons to be appointed by the governor. Said commission shall report to the house and senate committees on ways and means not later than February 1, 1999.

SECTION 370. The department of education shall conduct a study of the formula for distribution of funds to cities and towns participating in the METCO program, so-called. Such study shall include, but not be limited to: (a) disparity in reimbursement between individual school districts participating in said METCO program; (b) disparity in reimbursement between school districts receiving reimbursement pursuant to said METCO program and districts receiving reimbursement from the charter school program pursuant to

section 89 of chapter 71 of the General Laws and the school choice program pursuant to section 12B of chapter 76 of the General Laws; (c) recommendations, if any, for improving the reimbursement formula, including the fiscal impact of such recommendations. A report of the results of such study shall be filed with the joint committee on education, arts, and humanities and the house and senate committees on ways and means not later than December 30, 1998.

SECTION 371. The department of education shall issue and execute a request for services contract for the hiring of an individual or company to draft a plan for the creation of an evening vocational education program in the city of Boston and for identifying grant resources available to support the operation of such program in said city.

SECTION 372. The board of higher education is hereby authorized and directed to conduct a study of the establishment of a full-time satellite campus of a public college or university within the city of Attleboro. Said study shall include an analysis of the economic benefits to said city of Attleboro and the greater Attleboro region, the costs of establishing and maintaining a full-time satellite campus, including the costs of building acquisition and construction, and the unmet need for educational services within the greater Attleboro region. The board of higher education shall file the results of said study, along with any recommendations for legislation, with the clerk of the house of representatives, the clerk of the senate, the house and senate committees on ways and means, the senate committee on post audit and oversight, and the governor not later than December 31, 1998.

SECTION 373. The board of higher education, in consultation with the departments of education, economic development, and labor and workforce development, a president of a community college to be nominated by the community college presidents, a representative of the business community to be appointed by the governor, and a representative of organized labor to be appointed by the governor, shall conduct a study of expanding worker training and other job training programs within the community college system. Said study shall identify: (a) the steps which are necessary including, but not limited to, the expenditure of state appropriations for programs offered by the division of continuing education, to expand access for incumbent workers and businesses to general and specialized programs of study within the community college system; (b) current and new curricula which would best serve the evolving needs of the Massachusetts workforce and of the business community; (c) support services, including, but not limited to, the provision of day care, transportation services, financial assistance, and remedial education for workers and employers; and (d) the cost to the commonwealth of expanding such services. Said study, together with recommendations for legislation, if any, shall be filed with the clerks of the house of representatives and the senate not later than March 1, 1999.

SECTION 374. There is hereby established a higher education funding review commission to evaluate the accuracy and effectiveness of the funding formulas developed by the board of higher education and the university, state colleges, and community colleges pursuant to section 258 of chapter 43 of the acts of 1997, in determining the total level of resources

needed to fund the ordinary maintenance of each institution. Said commission shall include the secretary of administration and finance or his designee; the chancellor of higher education; the chair of the board of higher education; two state senators from different political parties who shall be appointed by the senate president; two members of the house of representatives from different political parties who shall be appointed by the speaker of the house of representatives; one representative of the community colleges who shall be appointed by the council of community colleges; one representative of the state colleges who shall be appointed by the council of state colleges; the president of the university of Massachusetts or his designee; and the following members to be appointed by the chair of the board of higher education: a representative from business or industry; an economist specializing in higher education; a representative from organized labor from among three nominees provided by the Massachusetts state labor council, AFL-CIO; a representative of public higher education faculty and professional staff from any three nominees provided by the Massachusetts Teachers Association and the Massachusetts Federation of Teachers jointly and three students, one representing each segment of the commonwealth's public higher education system. In order to ensure that said formulas provide an accurate, reasonable and adequate determination of institutional funding need in the areas of instruction, support services, and physical plant, said evaluation commission shall review and analyze the overall structure of the funding formulas and their components, including the methodology used to compute said components, and compare said formulas with formulas utilized by peer institutions with similar missions in other states. The commission shall also evaluate other funding methods, which shall include but not be limited to performance-based budgeting. The commission shall report said evaluation and its recommendations to the house and senate committees on ways and means, the executive office of administration and finance, and the joint committee on education, arts and humanities no later than March 1, 1999, provided, however, said commission shall hold no less than one public hearing for the purpose of public input on the formulas.

SECTION 375. There is hereby established a special commission to study the feasibility of Quincy College's becoming part of the state system of community colleges by consolidation, merger, affiliation or the establishment of a special charter relationship. The commission shall consist of not more than 13 members, of whom one shall be the chancellor of the board of higher education or a designee, one shall be the president of Quincy College or a designee, and ten members appointed by the governor, one of whom shall be the chairman of the board of a community college that may be affected by said merger or affiliation or a designee, one of whom shall be the chairman of the board of Cape Cod community college or a designee, three of whom shall be representatives of a collective bargaining unit, one of whom shall represent Quincy College faculty, one of whom shall be a member of the community college faculty system affected by said merger or affiliation, and one of whom shall be a member of the Cape Cod community college faculty system, and one of whom shall represent the Massachusetts Teachers Association. Said commission shall file

a report of its findings with the board of higher education not later than February 1, 1999.

SECTION 376. The public employee retirement administration commission shall conduct an analysis to determine the cost of an alternative retirement benefit for teachers. Such benefit to be analyzed shall include the following components: (a) all teachers who are not currently vested in the teachers retirement system shall participate and those teachers who are vested in the teachers retirement system may choose to participate; (b) such benefit shall be equal to the benefit provided under the current retirement system upon 25 years of creditable service plus 2 per cent and for each year of creditable service beyond 25 years a retiree shall receive an additional 2 per cent to the retirement benefit provided under the current retirement system, up to the maximum benefit allowable under current law; (c) teachers who left teaching before 1975 due to maternity may buy back up to four years of creditable service; (d) vocational education teachers may buy back up to four years of creditable service for their time spent in their vocation; (e) a teacher shall participate in the alternative retirement benefit system for at least three years or, in order to retire within three years, a teacher shall have contributed the equivalent of three years of his employee contribution; and (f) the retirement contribution of a teacher participating in the system shall be 10 per cent. Said commission shall report the results of such cost analysis to the house and senate committees on ways and means.

SECTION 377. The board of higher education shall file with the house and senate committees on ways and means on or before December 31, 1998, a report detailing the amount expended by each public institution of higher education in the commonwealth for library services and materials in fiscal year 1998. Said report shall include, but not be limited to, (i) a delineation of total library spending between the amount spent by each campus for said library services and materials from local campus funds and the amount spent from item 7077-0010 of section 2 this act, and (ii) an analysis of total library spending for each campus as compared to each of their peer institutions, as determined by said board.

SECTION 378. The department of correction shall study the processes and criteria for screening eligible inmates for Houston House placements. Such study shall include, but not be limited to: (a) data detailing the number of female inmates who have given birth during the last five years while incarcerated by said department or by a facility contracting with said department; (b) information, if available, detailing the number of instances in the last five years in which an infant born to an incarcerated mother was removed from the custody of its mother and the subsequent placements of such children; and (c) recommendations, if any, for changes to be made in said Houston House screening processes that shall better serve the interests of the children, women and public safety. Said department shall file a report of its findings not later than February 1, 1999 with the joint committee on public safety and the house and senate committees on ways and means.

SECTION 379. Notwithstanding the provisions of any general or special law to the contrary, in fiscal years 1999 and 2000, there shall be established within the office of the governor an advisory council on Alzheimer's disease and related disorders which shall advise the secretariats, departments, agencies and institutions of the commonwealth on matters of

policy, programs, services and information affecting residents of the commonwealth with dementia-related illnesses and their caregivers. Such advisory council shall have the following goals: (1) to recommend the delivery of services in the most effective and efficient manner possible, including identifying means of coordination and cooperation among different state agencies and departments in order to achieve cost savings and to facilitate meeting the needs of people with dementia and their caregivers; (2) to identify additional sources of federal and private sector funding with which the commonwealth may provide additional services and programs for people with dementia and their caregivers; (3) to promote public and professional awareness and education relative to dementia and access to dementia services and programs; (4) to identify service delivery mechanisms that enhance the quality of life for people with dementia and their caregivers; and (5) to evaluate and coordinate implementation of recommendations made in 1994 by the governor's conference on Alzheimer's disease. Such advisory council shall consist of 17 persons, five to be appointed by the governor, five to be appointed by the speaker of the house of representatives, one to be appointed by the minority leader of the house of representatives, five to be appointed by the president of the senate and one to be appointed by the minority leader of the senate and shall consist of representatives of state agencies, consumers, medical research and provider communities and representatives of the Massachusetts chapters on Alzheimer's disease and related disorders associations. Such council shall meet not less than quarterly and shall prepare an annual report of its activities and recommendations that shall be filed with the house and senate committees on ways and means and the joint committee on human services and elderly affairs.

SECTION 380. Notwithstanding the provisions of any general or special law or rule law or regulation to the contrary, there is hereby established a special commission for the purpose of making an investigation relative to the issues involved with physician practice management groups, so-called, and the effect that such groups have on the access to and quality of health care in the commonwealth. Said commission shall consist of two members of the senate, one of whom shall be the senate chair of the joint committee on health care and one of whom shall be a member of the minority party, two members of the house of representatives, one of whom shall be the house chair of the joint committee on health care and one of whom shall be a member of the minority party the secretary of health and human services, the president of the Massachusetts Hospital Association, the dean of the Boston University School of Public Health, the dean of the University of Massachusetts School of Public Health, the president of the Massachusetts Medical Society the president of the Massachusetts Council of Community Hospitals, the president of Boston Health and Hospitals, the executive director of the Massachusetts League of Neighborhood Community Health Centers, the executive director of Health Care For All and two persons to be appointed by the governor, one of whom shall be a representative of the Associated Industries of Massachusetts and one of whom shall be a representative from the Ad Hoc Committee to Defend Health Care.

Said commission shall be jointly chaired by the senate chair of the joint committee on health care, the house chair of the joint committee on health care and the secretary of health and human services. Said commission shall adopt such rules and establish such procedures as it deems necessary for the conduct of its business. Said commission may expend such funds as may be appropriated or made available therefor. No action of the commission shall be considered official unless approved by a majority vote of the commission.

The commission shall have the following responsibilities and duties:

(a) to examine existing rules and regulations relative to physician practice management groups and their standing in the commonwealth;

(b) to study the organizational structure, management contracts and financial incentives, as well as their involvement with and impact on health centers, and the so-called walk-in clinics in the commonwealth; and

(c) to examine the impact of the purchase and sale of such groups by nonprofit entities from nonprofit entities, from nonprofit entities to for-profit entities and from for-profit entities to other for-profit entities.

Said commission shall report its findings, along with draft legislation, to the house and senate committees on ways and means within 90 days of the effective date of this act.

SECTION 381. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study and investigate the activities, operation and oversight of the commonwealth deferred compensation plan. Such study shall include, but not be limited to, payout alternatives to those in the current plan and establishment of a new plan under which a committee of elected or appointed state employees and plan members shall manage and control the operation and investment of the funds of such plan and the administrative, operational and personnel powers or limitations required by such committee to implement a new system. Said commission shall consist of three members of the house of representatives, one of whom shall be the chairman of the joint committee on public service and one of whom shall be a member of the minority party, and three members of the senate, one of whom shall be the chairman of the joint committee on public service and one of whom shall be a member of the minority party. The joint chairs of the committee on public service shall serve as co-chairs of said commission. Said commission shall report the results of its study, together with recommendations and draft legislation necessary to carry out such recommendations, by filing the same with the clerks of the house of representatives and the senate on or before January 1, 1999.

SECTION 382. Notwithstanding the provisions any general or special law to the contrary, there is hereby established a special commission to study public benefits for veterans. Said commission shall study and investigate the scope of benefits provided to veterans pursuant to the provisions of chapter 115 of the General Laws or any other general or special law of the commonwealth, or local or federal law providing said benefits to veterans. Said commission shall study and make recommendations regarding the definition

Chap. 194

of the word "veteran" in the General Laws, and whether changes to said definition are appropriate or necessary in order to include in said definition individuals who have served or are serving in the armed forces and do not meet the "wartime service" requirement of clause Forty-third of section 7 of chapter 4 of the General Laws. Said commission shall also study and make recommendations regarding the application of said definition to any benefits provided to such veterans under the laws of the commonwealth. Said commission shall also study and make recommendations regarding the benefits provided to the surviving spouses of servicemen or servicewomen who died while serving in the armed forces of the United States or suffered service-connected disabilities. Said commission shall consist of eight members as follows: three members of the house of representatives, one of whom shall be the house chairman of the joint committee on public service and one of whom shall be a member of the minority party; three members of the senate, one of whom shall be the senate chairman of the joint committee on public service, one of whom shall be the chairman of the senate committee on post audit and oversight and one of whom shall be a member of the minority party, the commissioner of veterans services or his designee and the secretary of administration and finance, or his designee. Said chairmen of the joint committee on public service shall be the chairmen of said commission. Said commission shall report its findings and recommendations, including any fiscal impact and proposed legislation, to the secretary of administration and finance and the house and senate committees on ways and means not later than March 1, 1999.

SECTION 383. The department of revenue and the public employee retirement administration commission shall submit a report to the house and senate committees on ways and means and the secretary of administration and finance on the fiscal impact of deducting all retirement allowances payable to veterans under sections 58 to 60, inclusive, of chapter 32 of the General Laws, from the federal gross income in determining the Massachusetts gross income pursuant to section 2 of chapter 62 of the General Laws.

SECTION 384. The executive office for administration and finance, in consultation with the executive office of health and human services and appropriate state agencies including, but not limited to, the division of medical assistance and the departments of public health and mental health, shall assess the impact of health care benefit expansions enacted pursuant to chapter 203 of the acts of 1996 and chapter 170 of the acts of 1997 on the provision of health care benefits and services by programs of said agencies. Such assessments shall analyze and report on the projected caseload and cost implications of such health care expansions for such state-funded health programs including, but not limited to, family health services, early intervention, the healthy start program, AIDS prevention and treatment services, substance abuse services, community mental health, adult community services, the universal immunization program and the children's medical security plan. Such report shall also detail the impact of health care expansions on the public health hospitals, including the projected impact on hospital census, hospital revenues and federal reimbursement for each public health hospital. Such report shall also include an estimate of

the number of clients served by programs within the departments as of July 1, 1998 who are eligible for services under the MassHealth program at the division of medical assistance. Based on such assessment, such report shall include recommendations for re-allocating resources and reconfiguring programs in order to eliminate program duplication and maximize federal and third party reimbursements. Such recommendations may also include proposals for the use of any savings to state-funded programs resulting from such health care benefit expansion for unmet need, waiting lists and enhancements of existing services. Such report shall be submitted to the house and senate committees on ways and means not later than November 1, 1998.

SECTION 385. There is hereby established a special commission consisting of the secretary of administration and finance, or his designee, who shall serve as chairman, the secretary of elder affairs, or his designee, the commissioner of medical assistance, or his designee, one member of the Massachusetts Home Care Association, one member of the Home and Health Care Association, and one representative of consumers receiving Medicare home health services to be appointed by the governor for the purposes of studying the impact of current and anticipated reductions in Medicare spending as a result of the Balanced Budget Act of 1997, so-called, on the provision of home health and state-funded home care services to elderly and disabled persons in the commonwealth. Said special commission shall use the results of said study to develop a plan for assisting agencies that provide home based health care funded by Medicare that face severe financial duress or agencies that provided home-based care that face substantial increases in demand for their services as a result of reductions in Medicare spending. The commission shall report the results of said study, including said plan, by filing the same with the clerks of the house and senate not later than September 1, 1998.

SECTION 386. Notwithstanding any general or special law to the contrary, there is hereby established a special commission to study methods of reducing the civil liability for acts or omissions committed by certain health care and human services professionals while serving as volunteers. Said study shall include, but not be limited to, examination of ways to relieve said professionals from civil liability unless they have committed an act of gross negligence or willful misconduct, and deeming such professionals as agents of the commonwealth who are acting in an authorized governmental capacity with respect to delivery of such health care and human services as volunteers. Said study shall apply to, but not be limited to, individuals licensed in audiology, speech pathology, dentistry, medicine, nursing, optometry, pharmacy and psychology and licensed opticians, hearing aid specialists and mental health counselors who serve in a volunteer capacity without compensation, provided that such individuals have no legal or financial interest in a clinic to which a patient is referred. Said commission shall consist of ten members as follows: three members of the house of representatives, one of whom shall be the house chairman of the joint committee on health care, and one of whom shall be a member of the minority party in the house; three members of the senate, one of whom shall be the senate chairman of the joint committee on

health care, and one of whom shall be a member of the minority party in the senate; the secretary of the office of consumer affairs and business regulation or his designee; the director of the division of registration or his designee; the attorney general or his designee and the commissioner of the department of public health or his designee. The joint chairs of the committee on health care shall serve as co-chairs of said commission. Said commission shall report said study together with its recommendations, if any, and draft legislation necessary to carry out such recommendations by filing the same with the house and senate clerks, and the house and senate committees on ways and means on or before March 31, 1999.

SECTION 387. The board of registration in pharmacy shall conduct an investigation and study relative to the necessity of licensing pharmacy technicians employed in retail pharmacies, hospitals, clinics and other health care provider settings. Said board shall report the results of such investigation and study to the joint committees on ways and means and health care on or before December 31, 1998; provided, however, that said board shall, prior to concluding such study, consult with parties affected by said board's matter of study including, but not limited to, the Massachusetts Association of Health System Pharmacies, Massachusetts Chain Drug Council, Massachusetts Pharmacists Association and the division of health care quality within the department of public health.

SECTION 388. There is hereby established a task force to study the effects on cost, quality and access of increasing the number of programs at community hospitals that are authorized to perform cardiac surgery in affiliation with accredited and primary thoracic surgery residency programs at academic medical centers.

Said task force shall consist of thirteen members: two members of the senate, one of whom shall be the senate chairman of the joint committee on health care and the other of whom shall be a member of the minority party recommended to the president of the senate by the senate minority leader for appointment to said task force; one of whom shall be the house chairman of the joint committee and the other of whom shall be a member of the minority party recommended to the speaker of the house of representatives by the minority leader for appointment to said task force; the secretary of the executive office of health and human services; the commissioner of public health; and the following seven members to be appointed by the governor, one of whom shall represent academic medical centers and who shall be a cardiac surgeon; one of whom shall represent a graduate school of public health and shall be a medical economist, one of whom shall represent the Massachusetts Medical Society, one of whom shall represent the Massachusetts Hospital Association, one of whom shall represent the Massachusetts Council of Community Hospitals, one of whom shall represent the Massachusetts Association of Health Maintenance Organization, and one of whom shall represent Associated Industries of Massachusetts. Said task force shall be chaired jointly by the chairmen of the joint legislative committee on health care and the secretary of the executive office of health and human services.

Said task force shall study: (1) issues relative to quality and cost in establishing and

operating community-based cardiac surgery programs supported by collaboration agreements with academic medical center as compared to cardiac surgery programs operated at such academic medical centers; (2) whether the determination of need program adequately projects the clinical need for cardiac surgery; (3) whether such need can financially and clinically support the expansion of such programs to community hospitals; (4) whether access to existing cardiac surgery programs is reasonable or sufficient to meet patient needs or would be enhanced by the development of new community-based cardiac surgery programs; (6) the impact of community-based cardiac surgery programs on patient volume, quality and viability of existing cardiac surgery programs at each of the academic medical centers; (7) the health and socioeconomic status and size of the population of the primary service area of not more than six community hospitals that the department would consider to be financially and clinically capable and prepared of operating community-based cardiac surgery programs; and (8) the sufficiency of the affiliation agreement that each such community hospital proposed to establish with an academic medical center to meet quality, volume and cost efficiency standards established by the department.

Said task force shall submit said report to the house and senate committees on ways and means not later than January 1, 1999. The department of public health is hereby prohibited from awarding and proceeding with any such community-based pilot or demonstration program relative to cardiac surgery, including, but not limited to open heart surgery, until the report of the commission has been filed with the clerk of the house of representatives and the clerk of the senate.

SECTION 389. The department of transitional assistance, in consultation with the Massachusetts commission for the blind, shall submit a comprehensive report on the proposed administration by the commonwealth of the state supplement of the Supplemental Security Income program, including a detailed assessment of costs associated with field operations, medical determinations, check processing and information systems. Such report shall include: (1) a cost/benefit analysis, so-called, that compares the projected costs of federal administration with the projected cost of state administration; (2) estimates for in-house administration as compared to cost estimates for contracted service, including costs associated with modifying the benefit eligibility and control on-line network or BEACON system; (3) the number of state-only cases, the projected number of annual disability determinations and the cost per determinations, the projected number of annual disability redeterminations and cost per redeterminations and the cost per check using said department's electronic benefit transfer system; (4) a continuation of the current state disability and financial eligibility standards; and (5) recommendations for coordinating service delivery with the federal Social Security Administration. Said department shall submit such report to the house and senate committees on ways and means and the secretary of administration and finance on or before November 1, 1998.

SECTION 390. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study the potential reuse of the

Chap. 194

building and grounds of Dever State School, which shall evaluate the best use of said property from a community and regional perspective. Said commission shall consist of the commissioner of capital asset management and maintenance, or his designee, the commissioner of mental retardation, or his designee, the director of economic development, or his designee, one member appointed by the Southeastern Regional Planning and Economic Development District, one member appointed by the mayor of the city of Taunton, two members from the department of mental retardation region V citizen advisory board to be appointed by the commissioner of said department; one member of the Dever Association, one member representative of the AFL-CIO, the state senator from the first Plymouth and Bristol district, the state representative from the third Bristol district, the state representative from the fourth Bristol district, the state representative from the fifth Bristol district and one member appointed by the greater Taunton chamber of commerce. The commission shall file a report and recommendations with the house and senate committees on ways and means not later than June 30, 1999.

SECTION 391. The secretary of health and human services shall submit a report to the senate and house committees on ways and means, not later than January 31, 1999 on changes made to the process of conducting investigations into allegations of abuse of persons with disabilities pursuant to recommendations of the investigations advisory panel for the department of mental retardation in its April 1998 report.

SECTION 392. Notwithstanding the provisions of any general or special law to the contrary, the secretary of environmental affairs shall conduct a study of sedimentation patterns in Hyannis Harbor, so-called, for the purpose of determining whether or not the activities of the Woods Hole, Nantucket and Martha's Vineyard Steamship Authority are adversely impacting the activities of marinas or other water dependent uses prevalent in said harbor. Said study shall take into consideration all prior studies conducted by said Authority and other users of the harbor. The results of said study shall be submitted to the house and senate committees on ways and means not later than February 3, 1999.

SECTION 393. Notwithstanding the provisions of any general or special law to the contrary, the commissioner of the department of fisheries, wildlife and environmental law enforcement, in consultation with the secretary of administration and finance, shall study the issue of selling and issuing licenses and registration certificates, including the renewal and transfer thereof issued pursuant to the provisions of subsection (a) of section 30 and sections 11, 22 and 23 of chapter 90B and sections 2, 4, 17, 38, and 83 of chapter 130 of the General Laws, in order to determine whether persons other than the director should be authorized to act as an agent for said director and charge a fee therefor, and shall issue a report and recommendations, if any, together with legislation and shall file the same with the clerk of the house and senate and the house and senate committees on ways and means not later than November 15, 1998. Said report and legislation shall include provisions specifically designed to protect the commonwealth against unauthorized licensing and other fraud that may result from the designation of alternative licensing agents.

SECTION 394. Notwithstanding the provisions of any general or special law to the contrary, the office of travel and tourism and the metropolitan district commission, in consultation with the municipalities in the vicinity of the Quabbin reservoir, and the departments of environmental protection, environmental management, fisheries, wildlife and environmental law enforcement, shall jointly study opportunities to promote tourism and expand recreational facilities and activities in said towns. Said study shall: (a) develop a strategy to promote the unique scenic beauty and cultural activities of said towns; (b) delineate opportunities to expand recreational activities, including, but not limited to, passive and active recreational activities within said towns; (c) study methods by which such activities may be expanded without compromising the integrity of the watershed area surrounding the Quabbin reservoir; and (d) study the environmental impact, if any, of current recreational and tourism activities in said towns on the water quality of said reservoir. Said study, together with recommendations for legislation, if any, shall be submitted to the house and senate committees on ways and means and the joint committee on natural resources and agriculture not later than February 3, 1999.

SECTION 395. Not later than December 15, 1998, the registrar of motor vehicles shall, in consultation with the commissioner of environmental protection, file a report with the secretary of administration and finance and the house and senate committees on ways and means detailing the projected balance as of June 30 of each fiscal year for fiscal years 1998 to 2005, inclusive, of the Motor Vehicle Inspection Trust Fund established by section 61 of chapter 10 of the General Laws. Such report shall include the projected total annual revenues and expenditures for fiscal years 1998 to 2005, inclusive, and shall identify the means by which said fund shall be brought into balance by June 30, 2005, as required pursuant to said section 61. Said registry and said department shall revise and resubmit such report not later than the second Wednesday of December of each fiscal year for fiscal years 1999 to 2005, inclusive.

SECTION 396. There is hereby established a special commission on expenditures by the commonwealth for snow and ice operations which shall be comprised of four members of the house of representatives, one of whom shall be appointed by the minority leader, three members of the senate, one of whom shall be appointed by the minority leader, the secretary of administration and finance or his designee and the commissioner of highways or his designee. Said commission shall conduct an analysis and review of the process for making appropriations and supplemental appropriations with regard to snow and ice operations and making recommendations for improvements in the policies and procedures currently utilized with the goal of ensuring more timely payment to vendors and contractors utilized by the commonwealth in snow and ice operations and procedures utilized by the Highway Fund in ensuring the most cost-effective use of private vendors. Said commission shall hold its first meeting not later than September 30, 1998 and shall file a report with recommendations with the clerks of the house of representatives and senate and the senate and house committees on ways and means not later than March 1, 1999.

SECTION 397. The Brockton Area Transit Authority and the Massachusetts Bay Transportation Authority are hereby directed jointly to study the feasibility of providing interdistrict transportation services for the town of Rockland and contiguous communities to satisfy the transportation needs, including but not limited to shopping, health care, daycare and education. Said study and accompanying recommendations shall be filed with the secretary of transportation, the house and senate ways and means committees and the joint committee on transportation on or before April 1, 1999.

SECTION 398. There is hereby established a special commission to study the acquisition, control and disposition of real property by public authorities for the purpose of determining whether or not such authorities shall be governed by the provisions of sections 40E to 40L, inclusive, of chapter 7 of the General Laws. Said special commission shall examine the purposes of the aforementioned sections of said chapter 7 and the policy of allowing public authorities to be governed by separate sections of the General Laws for the acquisition, control and disposition of real property. Said special commission shall consist of two members of the senate, the secretary of administration and finance, the inspector general and the commissioner of capital asset management and maintenance.

For the purposes of such study, public authorities shall include, but not be limited, to the Bay State Skills Corporation, Centers of Excellence Corporation, Community Economic Development Assistance Corporation, Community Development Finance Corporation, government land bank, Massachusetts Bay Transportation Authority, Massachusetts Business Development Corporation, Massachusetts Capital Resource Company, Massachusetts Convention Center Authority, Massachusetts Corporation for Educational Telecommunications, Massachusetts Education Loan Authority, Massachusetts Health and Educational Facilities Authority, Massachusetts Higher Education Assistance Corporation, Massachusetts Housing Finance Agency, Massachusetts Horse Racing Authority, Massachusetts Industrial Finance Agency, Massachusetts Industrial Service Program, Massachusetts Legal Assistance Corporation, Massachusetts Port Authority, Massachusetts Product Development Corporation, Massachusetts Technology Development Corporation, Massachusetts Technology Park Corporation, Massachusetts Turnpike Authority, Massachusetts Water Resources Authority, Nantucket Land Bank, New England Loan Marketing Corporation, Pension Reserves Investment Management Board, State College Building Authority, Southeastern Massachusetts University Building Authority, Thrift Institutions Fund for Economic Development, University of Lowell Building Authority, University of Massachusetts Building Authority, victim and witness board and the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority. Said special commission shall report, in writing, the results of such study, together with recommendations for legislation, if any, to the house and senate committees on ways and means and the joint committee on state administration not later than January 15, 1999.

SECTION 399. The department of education shall conduct a study of special education transportation for the purpose of improving the provision of transportation services

Chap. 194

to children with special needs who attend out-of-district school programs pursuant to chapter 71B of the General Laws. Said department shall report the results of such study to the joint committee on education, arts and humanities and the house and senate committees on ways and means not later than December 1, 1998.

SECTION 400. Notwithstanding the provisions of any general or special law to the contrary, the administrators of the Massachusetts criminal justice training council shall work in coordination with the board of higher education to study the feasibility of developing a certified program or certified courses for academic alternative preservice training at the higher education facilities. The results of such study shall be reported to the senate president, the speaker of the house of representatives, the senate minority leader, the house minority leader, the joint committee on public safety and the house and senate committees on ways and means not later than December 31, 1998.

SECTION 401. The public employee retirement administration commission shall prepare a status report, including an analysis and recommendations for adjustment or change, of the fee and expense schedule established by the house and senate committees on ways and means pursuant to paragraph (c) of subdivision (3) of section 6 of chapter 32 of the General Laws. Said commission shall file a report with the house and senate committee on ways and means not later than August 15, 1998.

SECTION 402. Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator shall develop a revised management pay plan for the commonwealth. Such revised management pay plan shall replace the management pay plan in section 46C of chapter 30 of the General Laws. Such revised management pay plan shall be filed in the form of legislation with the house and senate clerks not later than October 1, 1998.

SECTION 403. Notwithstanding the provisions of any general or special law to the contrary, the personnel administrator, in consultation with the comptroller, shall file a revised personnel schedule with the house and senate committees on ways and means. Such revised schedule shall reschedule positions to those items of appropriation from which the majority of such positions' compensation is paid. Such revised schedule shall be designed to minimize the need for the comptroller to employ the Personnel Cost Reporting System, so-called, in allocating charges for compensation of state personnel. Such revised plan shall be filed with the house and senate committees on ways and means not later than September 1, 1998 and shall take effect not later than September 30, 1998. The personnel administrator and the comptroller shall make such adjustments as may be necessary to the Massachusetts management accounting and reporting system the personnel administrative reporting information system, so-called, and the payroll cost reporting system, so-called, in order to implement the revised personnel schedule filed under the provisions of this section.

SECTION 404. The secretary of public safety shall conduct a study relative to amending the operating under the influence laws and the methods for maximizing federal funding revenue sources. Said secretary shall report the results of such study to the joint

committees on criminal justice and public safety and the house and senate committees on ways and means not later than December 1, 1998.

SECTION 405. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study methods of identifying potentially dangerous students and protecting the students, faculty and administration commonwealth from acts of extreme violence. Such study shall include, but not be limited to, the detection of early warning signs, effective methods of intervention once a student is identified, the use of security guards or metal detectors in schools, appropriate levels of punishment for carrying guns in schools and appropriate peer and guidance counseling. Said commission shall consist of 12 members as follows: the house and senate chairmen of the joint committee on public safety; the house and senate chairmen of the joint committee on education; the commissioner of the board of education or his designee; one superintendent who shall be appointed by the Massachusetts Association of Superintendents; one principal who shall be appointed by Massachusetts Association of Secondary School Principals; one teacher who shall be appointed by the Massachusetts Teacher's Association; the secretary of the executive office of public safety or his designee; one chief of police who shall be appointed by the Massachusetts Police Chiefs Association; one ranking officer who is a member of the Massachusetts Safety Officers League who shall be appointed by said league; and one patrolman who is a member of the Massachusetts Safety Officers League who shall be appointed by said league. Said commission shall research and develop appropriate guidelines and criteria for a report and recommendations no later than September 1, 1998. Said commission shall conduct five regional hearings across the commonwealth to assist in the development of guidelines and shall establish criteria for recommendations not later than November 1, 1998. Said commission shall report the results of its study, together with recommendations and drafts of legislation necessary to carry out such recommendations, byfiling the same with the clerks of the house of representatives and the senate on or before November 30, 1998.

SECTION 406. (1) Notwithstanding the provisions of any general or special law to the contrary, in order to access funds from the School and Libraries Corporation, hereinafter known as the Universal Service Fund, or a successor thereto, the commonwealth and its political subdivisions may utilize the provisions of section 5 of chapter 30B of the General Laws to solicit competitive sealed bids for the installation of network components, customer premises equipment, physical plant and electronic infrastructure supporting a local area network, wide area network services, whether broadband, switched, analog or digital for the receipt, forwarding and delivery of communications including, but not limited to, the design and construction of building technology infrastructure and supporting electrical work of public schools and libraries, to be paid for, financed or otherwise funded, in whole or in part, with funds from the Universal Service Fund. Electrical upgrades and other construction work necessary in such projects that are not funded from the Universal Service Fund may be included in contracts awarded pursuant to this subsection. The provisions of sections 38A½

Chap. 194

to 38O, inclusive, of chapter 7, section 39M of chapter 30 and sections 44A to 44J, inclusive, of chapter 149 of the General Laws shall not apply to contracts awarded under this subsection; provided, however, that the provisions of sections 26 to 27H, inclusive of said chapter 149 shall apply to contracts awarded pursuant to this subsection.

(2) Awarding authorities shall observe the following requirements in any procurement conducted pursuant to this section.

(a) Only vendors that have been prequalified by the awarding authority may bid on a project, except that the commonwealth may establish a statewide list of prequalified vendors that may bid on a project. A vendor that is on a statewide blanket contract established by the operational services division or the department of education, or that has received an appropriate certificate of eligibility for telecommunications systems pursuant to section 44D of chapter 149 of the General Laws, shall be deemed prequalified and may bid on projects under this section; provided, however, that any such prequalified bidder, if selected as the best value and winning bid, who does not participate in a bona fide telecommunications apprenticeship program approved by the commonwealth which program complies with the requirements of sections 11E to 11L, inclusive, of chapter 23 of the General Laws and includes all trades or occupations represented in their workforce at the time of submitting a bid, shall establish such a bona fide telecommunications apprenticeship program and submit to the awarding authority a certificate of insurance evidencing membership in an insurance program as set forth in chapter 152 of the General Laws prior to the signing of the contract by such awarding authority. Such insurance policy shall remain in effect for the duration of the contract. If such insurance expires before the completion of the work under such contract, the applicant shall provide to the awarding authority a new certificate of insurance showing to the satisfaction of such awarding authority the new expiration date of such policy.

(b) The awarding authority shall prequalify vendors by publishing a notice of its invitation for applications for prequalification in the central register published by the state secretary and in a newspaper of general circulation in the locality of the project. Such awarding authority shall prequalify vendors solely on the basis of the evaluation criteria reasonably calculated to identify qualified vendors and included in the invitation for applications. Such criteria shall be consistent with the minimum prequalification criteria set by the commonwealth.

(c) The awarding authority shall invite bids from prequalified vendors by publishing a notice in the central register published by the state secretary and in a newspaper of general circulation in the locality of the project.

(d) The awarding authority shall award contracts to the prequalified bidder who offers such awarding authority the best value. Best value shall mean making contract award decisions on the basis of price and the bidder's ability to successfully complete the contract on time and at the quality level specified at the offered price, technical factors relating the project and the bidder's past performance on similar contracts. All elements, including price,

Chap. 194

shall be identified in the invitation for bids as to their relative importance to the awarding authority in the final selection process.

(e) The provisions of sections 26 to 27H, inclusive, of said chapter 149 shall apply to any contracts awarded pursuant to this section.

(f) Awarding authorities shall submit a copy of any contract awarded pursuant to this section to the department of education and the inspector general within 15 days of signing such contract.

(3) This section establishes an alternative procurement procedure for awarding authorities and nothing in this section be construed to prevent an awarding authority from using any other procurement method allowed by law.

SECTION 407. Notwithstanding the provisions of any general or special law to the contrary, the secretary of administration and finance and the secretary of environmental affairs, shall jointly study the need for an increase in the handling fee paid to redemption centers, so-called, pursuant to paragraph (e) of section 323 of chapter 94 of the General Laws. Such study shall evaluate the financial implications of an increase in the handling fee and the benefit, if any, to the commonwealth, redemption centers and consumers as a result of a change in such fee and shall further analyze, by way of comparison, the handling fees of other states. Such study shall also consider whether distributors shall be required to pick up such beverage containers from redemption centers, or otherwise pay for the charges associated with transportation of said beverage containers. Said secretaries shall report by September 30, 1998 to the house and senate committees on ways and means with the results of their study and shall make recommendations for legislation.

SECTION 408. Notwithstanding the provisions of any general or special law to the contrary, for the commonwealth's fiscal years beginning in fiscal year 1999, any specialty hospital, as defined in section 1 of chapter 118G of the General Laws, which provides free care as defined in said section 1 of said chapter 118G, shall be entitled to file a petition with the division of health care finance and policy for relief from its net liability to the uncompensated care pool pursuant to section 18 of said chapter 118G; provided, however, that such specialty hospital's gross outpatient service revenue shall equal at least 80 per cent of its gross patient service revenue as of January 1, 1996. For the purposes of this section "gross outpatient service revenue" shall mean gross patient service revenue minus gross inpatient service revenue.

For relief for the commonwealth's fiscal year 1999, the division shall determine such specialty hospital's excess revenues over expenses using the audited financial statements for hospital fiscal year 1997. The relief shall equal the difference between such specialty hospital's net liability to the uncompensated care pool calculated pursuant to said section 18 of said chapter 118G and the excess revenues over expenses; provided, however, that if such difference is in the negative, the relief shall equal such hospital's net liability to the pool.

For years subsequent to the commonwealth's fiscal year 1999, said specialty hospital shall file such petition by February 1 of each year requesting relief for the following fiscal

year of the commonwealth. The division of health care finance and policy shall determine whether such specialty hospital's ratio of free care and emergency bad debt charges to nonemergency bad debt charges meets the following criteria, using the uncompensated care charges reported for the most recent hospital fiscal year or, if such charges are unavailable, the best available data. For relief from the commonwealth's fiscal year 2000 net liability, such specialty hospital's fiscal year 1998 ratio shall increase by at least 10 per cent over its fiscal year 1997 ratio. For relief from the net liability in the commonwealth's fiscal year 2001 and subsequent years, such specialty hospital's ratio for the hospital's fiscal year two years prior to the year for which relief is requested must increase by at least 30 per cent over its ratio for its fiscal year three years prior to the year for which relief is requested, until its ratio is greater than or equal to the average ratio for all acute hospitals exclusive of Boston City Hospital and Cambridge Hospital. Once the specialty hospital's ratio is greater than or equal to such average, such ratio shall remain at least 90 per cent of such average in each succeeding year in order to continue to qualify for relief.

For relief for years subsequent to the commonwealth's fiscal year 1999, providing the specialty hospital's ratio meets these criteria, the division shall determine such specialty hospital's excess revenues over expenses, using the audited financial statements for the hospital fiscal year two years prior to the year for which relief is requested or, if such statements are not available, the best available data. If such specialty hospital has received less than \$936,000 from its related parent company or foundation in any fiscal year, its excess revenues over expenses shall be recalculated as if it had received \$936,000 from such parent company or foundation. The relief shall equal the difference between such specialty hospital's net liability to the uncompensated care pool calculated pursuant to section 18 of chapter 118G of the General Laws and such excess revenues over expenses; provided, however, that if such difference is in the negative, the relief shall equal said specialty hospital's net liability to the pool; and provided further, that if such difference is positive and less than one-half of one per cent of such specialty hospital's net patient service revenue, the relief shall be zero.

If such specialty hospital qualifies for relief under this section, the division shall transfer from the labor shortage fund, established pursuant to section 83 of chapter 23 of the acts of 1988 into the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, an amount equal to the amount of such relief calculated pursuant to this section for the commonwealth's relevant fiscal year, for the purpose of ensuring that other participating hospitals' liability to the uncompensated care pool does not increase due to the relief granted to such specialty hospital. The labor shortage fund shall be the sole source of funding for this relief. If the amount of relief calculated pursuant to this section exceeds the funds remaining in the labor shortage fund, the amount of relief shall equal the funds remaining in the labor shortage fund. Such specialty hospital's net liability to the uncompensated care pool pursuant to said section 18 of said chapter 118G shall be reduced by the amount transferred from the labor shortage fund.

The division shall file a report with the joint committee on health care and the house and senate committees on ways and means by April 1 of each year, specifying whether such specialty hospital meets the criteria set forth in this section, the estimated amount of relief to be granted, if any, and the current balance of funds remaining in the labor shortage fund.

SECTION 409. A special commission is hereby established, to consist of three members of the senate, one of whom shall be the senate chairman of the joint committee on public service, who shall serve as co-chair of the commission, one of whom shall be appointed by the senate president and one of whom shall be appointed by the senate minority leader; three members of the house of representatives, one of whom shall be the house chairman of the joint committee on public service who shall serve as co-chair, one of whom shall be appointed by the speaker of the house of representatives and one of whom shall be appointed by the house minority leader; the governor or his designee; the chairman of the Massachusetts Joint Labor-Management Committee and six persons to be appointed by the governor, one of whom shall be a firefighter representing the Professional Fire Fighters of Massachusetts from nominations submitted to the governor by said Professional Fire Fighters of Massachusetts, one of whom shall be a police officer representing the International Brotherhood of Police Officers, NAGE, one of whom shall be a member of the AFL-CIO from nominations submitted by said AFL-CIO, two of whom, one representing towns and one representing cities, shall be representatives of the Massachusetts Municipal Association from nominations submitted by the Massachusetts Municipal Association and one of whom shall be a management member of the Massachusetts Joint Labor-Management Committee, for the purpose of making an investigation and study of collective bargaining and dispute resolutions for municipal police officers, firefighters and other public employees, to examine procedures including, but not limited to, the implementation of a binding arbitration process by which collective bargaining negotiations which have remained unresolved for an unreasonable period of time between such municipal police officers, firefighters and other public employees in the cities and towns may be resolved and to review any other matters as said commission deems appropriate. Said commission shall report to the general court the results of its study and its recommendations, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before June 1, 1999.

SECTION 410. There is hereby established a special commission to examine, review and analyze the practices and policies of the commonwealth, including the judiciary, as they apply to the determination, modification, calculation and collection of child support, the determination and administration of the rights of custodial parents, non-custodial parents and those parents entitled to joint custody as the result of a divorce or separation, including visitation and parental information, the issuance, review, termination and modification of restraining orders pursuant to chapter 209A of the General Laws and any ancillary or related matters.

Said commission shall consist of 13 members who shall be appointed as follows: three members appointed by the speaker of the house of representatives, at least one of whom shall represent the minority party; three members appointed by the senate president, at least one of whom shall represent the minority party and seven members to be appointed by the governor, who shall be as follows: one member of the judiciary currently sitting as a probate judge, one member of the Massachusetts Bar Association with a practice or expertise in family law, one member from a recognized group, such as Help for Abused Women and Children, which advocates for women and children, one member of a recognized group which advocates for fathers, one representative from the department of revenue, and two members representing the general public.

Said commission shall examine, review and analyze such matters and consider the fairness, equity, practicality and accountability of such subject matter together with its consequences for the welfare of parents, children and family preservation and stability. Said commission shall report its findings, together with any legislative recommendations to the clerks of the house and senate and the house and senate committees on ways and means not later than June 30, 1999.

SECTION 411. The department of environmental protection, in consultation with the executive office for administration and finance, the Water Pollution Abatement Trust, and the department of housing and community development, shall conduct a study of potential financial assistance programs including, but not limited to, a Title V betterment program, relating to the costs of bringing sewage disposal systems serving manufactured housing communities into compliance with 310 CMR 15.00. A report thereof shall be submitted to the house and senate committees on ways and means not later than October 31, 1998.

SECTION 412. The department of public health shall conduct a study and file a report on a program of prescription drug coverage for uninsured or underinsured individuals undergoing treatments for life threatening or terminal diseases. Such report shall include, but not be limited to: the amount of state spending proposed, a statement of reasons in support of such amount and efforts to be undertaken by said department to establish and increase alternative sources of funding. Such report shall be filed with the general court not later than December 31, 1998.

SECTION 413. The Massachusetts Bay Transportation Authority shall prepare a study on the feasibility of providing additional commuter rail and bus transportation services to facilitate reverse commuting services, so-called. Such study shall include, but not be limited to, the following: 1) demand for additional commuter rail services that provide transportation from Boston during both morning and evening rush hour commutes to stations on commuter rail lines; 2) additional bus services and routes needed to provide north and south connecting services between commuter rail stations located in municipalities along the state highway route 128 and interstate highway route 495 corridor and the demand for such services; 3) whether such services assist businesses and industries with the recruitment and

retention of employees; and 4) the impact of such services on traffic management and congestion. A report of such study shall be filed with the clerks of the house and senate and with the joint committee on transportation not later than December 1, 1998.

SECTION 414. Notwithstanding the provisions of any general or special law to the contrary, the department of revenue, in concert with the registry of motor vehicles and the office of the inspector general, shall create the automobile registration and insurance law enforcement program to enforce all provisions of chapters 59, 60A, 64H, and 64I of the General Laws, relative to automobile registration, sales, excise tax, and automobile insurance laws and to publicize to the citizens of the commonwealth any changes to said provisions; provided, that the department of revenue shall purchase and develop computers and computer programs and hire administrative or computer support personnel necessary to enforce said provisions; provided further, that no more than 40 per cent of the appropriation made in item 1599-0001 shall be spent on administration and personnel; and provided further, that the commissioner shall report to the clerks of the house and senate by the second Monday in September, 1998 what, if any, additional appropriations and amendments to the General Laws are necessary to enforce said provisions.

SECTION 415. The executive office of transportation and construction shall conduct a daily study of traffic speed on the portion of state highway route 3 south of the city of Boston. Specifically, such study shall be conducted daily, at four hourly intervals, beginning at 6:30 a.m. and continuing to 9:30 a.m. for the northbound lanes and measuring the amount of time required to travel from the interchange with state highway route 53, at exit 13, in the town of Hanover, to the exit for Kneeland street in the city of Boston. Such study shall also be conducted daily, at four hour intervals, beginning at 3:30 p.m. and continuing until 6:30 p.m. Said executive office shall file a quarterly report with the joint committee on transportation in the legislature on the results of such study, including any recommendation for increasing the speed traveled on said state highway route 3 during the hours being studied.

SECTION 416. The president of the senate, the speaker of the house of representatives and the house and senate chairmen of the joint committee on education, arts and humanities shall contract with an independent entity to conduct a study of the impact of changing from maximum possible development in the least restrictive environment standard to the federal free appropriate public education standard in the delivery of education programs and services to children with disabilities. As a source of technical assistance in selecting the independent entity to conduct such study, the president of the senate, the speaker of the house and the house and senate chairmen of the joint committee on education, arts and humanities shall retain the University of Massachusetts through the Donahue Institute to work with other public and private higher education and external organizations in conducting the appropriate research. Such study shall include, but not be limited to: (a) analysis of the potential harm and benefits of changing the standard for all children with disabilities including, but not limited to, the potential impact on deaf children, children with

Chap. 194

mental retardation and children with autism and pervasive developmental disorder, as well as the potential impact on special education programs and services provided to children with disabilities as individual school districts respond to the change in standard; (b) review and comparison of special education programs and services provided to children with disabilities in the period prior to enforcement of maximum possible development in the least restrictive environment standard by the courts in 1985 as compared to programs and services provided in the time period subsequent to 1985 including, but not limited to, a review of the change in rates for placing students with disabilities in more and less restrictive programs; (c) comparison of the commonwealth's rates for placing children with disabilities in state operated institutions compared to the rates for other states; (d) review and comparison of the commonwealth's placement rates in regular education programs compared to placement rates in other states; (e) a review of the standards established in other states; (f) review and comparison of decisions rendered by administrative law judges and state and federal courts in the commonwealth as compared to decisions in other states; (g) analysis of how the change in standard could impact inclusion of children with disabilities in regular education programs; (h) analysis of the cost implications of retaining the maximum possible development in the least restrictive environment standard and the cost implications of changing to the free appropriate public education standard including, but not limited to consideration of potential costs incurred from litigation resulting from a change in the standard; (i) a review of the funding formula for special education, including a review of the funding formula's consistency with the IDEA Amendments of 1997 and any specific recommendations for changes in the formula; (j) an analysis and projection of the impact on programs and services provided to children with disabilities during the period of transition as individual districts interpret and implement a new standard; (k) comparison of the programs and services provided to children with disabilities in states that have consistently utilized the federal standard as compared to programs and services projected to be provided to children in the commonwealth during the period of transition as individual districts interpret and implement the new standard. A report of said study shall be filed with the president of the senate, the speaker of the house of representatives and the joint committee on education arts and humanities not later than February 1, 1999.

SECTION 417. Notwithstanding the provisions of general or special law to the contrary, all wireless service providers are hereby prohibited from charging a fee for 911 calls.

SECTION 418. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance shall examine the provider rate paid to the Union Square Nursing Home including, but not limited to, consideration of the extent to which such rate compares with rates paid to other nursing homes in the city of Boston. Said division shall report its findings to the house and senate committees on ways and means and the joint committee on health care not later than August 15, 1998.

SECTION 419. There is hereby established the South Shore Recycling Cooperative,

Chap. 194

a public body politic and corporate, hereinafter referred to as the cooperative. The towns of Abington, Cohasset, Duxbury, Hanover, Hingham, Hull, Kingston, Marshfield, Norwell, Pembroke, Rockland, Scituate and Weymouth may enter into an agreement to join said cooperative.

Said cooperative shall be for the purpose of and in accordance with an agreement entitled, "Intermunicipal Agreement for Cooperative Recycling on the South Shore", hereinafter referred to as the agreement, which is on file in the office of the town clerks of the member municipalities.

This section shall take effect in any aforementioned town upon vote by town meeting to accept the provisions of this section and the agreement. Said towns which accept the provisions of this section and the agreement shall be the initial members of the board of directors of the cooperative. Any other city or town may join the cooperative by vote of town meeting or city council, as the case may be, to accept the provisions of the agreement and to accept the provisions of this section; provided, however, that no such city or town may become a member unless such membership is accepted by majority vote of the board of directors of said cooperative.

The powers and authority of the cooperative shall be vested in a board of directors, which shall be composed of two representatives from each member city and town, appointed for three-year terms. One representative from each member city and town shall be appointed by the elected or appointed municipal board or commission which shall have the authority over solid waste management in such city or town. One representative shall be appointed by the board of selectmen or the city council, as the case may be, of the city or town. Each member city or town shall have one vote in all votes taken by the board of directors.

In addition to the powers enumerated in the agreement, the board of directors of said cooperative shall have the following rights and powers: to adopt bylaws for the regulation of its affairs and the conduct of its business; provided however, that such bylaws shall be consistent with this section; to adopt an official seal and alter the same at its pleasure; to maintain an office at such places as it may determine; to sue and be sued and to prosecute and defend actions relating to its properties and affairs; to own and maintain real and personal property; to apply for, accept and disburse grant funds; to receive, manage and disburse funds; to conduct regional procurement of supplies and services for members; to prepare, advertise and award contracts to provide regional solid waste or recycling services for member towns; to change its name and to hire and fire personnel.

The cooperative shall not have the power of eminent domain, nor the power to levy taxes, nor to require the payment of any funds by members, except as provided by the agreement. The cooperative shall not incur debt which obligates its assets for periods of more than one fiscal year. The cooperative shall be subject to all local zoning or non-zoning land-uses, by-laws and regulations. The employees and agents of the cooperative shall be agents and employees of the cooperative and not of the member cities and towns.

SECTION 420. Notwithstanding any provision of chapter 29C of the General Laws

to the contrary, the water pollution abatement trust created under said chapter 29C may provide loans to local governmental units for water pollution abatement projects with a useful life in excess of 20 years, such loans to be repaid over a term not greater than such useful life and, in no case greater than 30 years, and otherwise on such terms and conditions as the trust shall require and, in connection therewith, the trust may determine that the subsidy or other financial assistance provided to local governmental units from earnings from investment of reserves allocable to such loans shall be deemed to be the financial equivalent of a grant of 25 per cent of the eligible costs of the projects financed by such loans and that the additional subsidy or assistance provided from contract assistance received under section 6 or section 6A of said chapter 29C, together with such earnings, shall be deemed to be the financial equivalent of a grant of 50 per cent of such eligible costs or such greater percentage as may be required said section 6 or said section 6A; provided, however, that the total amount of contract assistance paid by the commonwealth over the life of such loan shall not exceed the amount of contract assistance that would have been paid if such loan had been made for a 20-year period.

SECTION 421. There is hereby established a special commission to study the feasibility of establishing a state grant program to promote 401(k) participation among small business employees. Said special commission shall examine state and federal laws as they pertain to the establishment of such a grant; the need for such a grant; the level of private sector involvement in such program and the structure and scope of the program. Said special commission shall consist of the chairmen of the joint committee on commerce and labor, one individual from each of the following financial institutions: Fidelity Investments, State Street Corporation, Putnam Investments and Massachusetts Financial Services; an individual from the AFL-CIO; the director of labor and workforce development or his designee; a representative from the National Federation for Independent Business; a representative from the Associated Industries of Massachusetts; a representative from the Greater Boston Chamber of Commerce; a representative from the banking industry and a representative from the 401(k) participant education field, all of whom shall be appointed by the governor. Said special commission shall report, in writing, the results of said study together with its recommendations, if any, not later than January 1, 1999.

SECTION 422. The secretary of public safety shall conduct a study relative to curbing frivolous lawsuits by inmates and shall file a report and recommendations, together with any legislation necessary to implement the recommendations of the study, with the clerks of house and senate, the joint committee on the judiciary and the house and senate committees on ways and means not later than January 1, 1999.

SECTION 423. The chief justice for administration and management, in consultation with the commissioner of capital asset management and maintenance, shall appoint a director of facility management for the New Chardon street courthouse and for the Fenton center in the city of Lawrence. Each director shall be removed in like manner. Each director shall be registered by the commonwealth as an architect or professional engineer

pursuant to the provisions of chapter 112 of the General Laws or shall be a certified property manager and shall have proven ability and extensive experience in the management and oversight of operation, maintenance and repair of buildings. Each director shall develop a maintenance plan for the courthouse under his management, which shall include an analysis of the costs for routine maintenance and long range capital repair and replacement needs. Such directors shall be responsible for and oversee any and all maintenance, repair and custodial work, whether routine or extraordinary in nature, and shall oversee all personnel, including contracted personnel, who are employed to perform and carry out such work. Each director shall keep an up-to-date record on all capital repair and maintenance projects completed, in process or scheduled for the future on all courthouse projects. Each director shall, by January 15, 1999, and annually thereafter prepare a report, on all capital repair and maintenance projects completed, in process or scheduled for the future. Such report shall include narrative statements indicating why such repairs or maintenance on such projects have been performed, postponed or canceled. A copy of such report shall be filed with the house and senate committees on ways and means, and the court facilities bureau in the trial court.

SECTION 424. Notwithstanding any general or special law to the contrary, the Massachusetts office of business development is hereby authorized and directed to administer in fiscal year 1999 the Massachusetts manufacturing networks program, established initially as item 9081-7044 in section 2A of chapter 19 of the acts of 1993, by subsequent appropriation acts as item 7003-0904, and in this act as item 7007-0300. In an effort to ensure the cost-effective delivery of network services to manufacturers, said office shall, after consultation with the corporation for business, work and learning, develop and implement in said fiscal year a plan to complete the transition for administrative oversight and management of said network services within the organizational and programmatic structure of said office by July 1, 1999. Said office shall seek the advice of said network boards in creating said plan but shall retain the authority to implement said plan in a manner and on terms and conditions it deems most appropriate. Said plan shall be submitted to the house and senate committees on ways and means not later than December 1, 1998.

SECTION 425. Notwithstanding the provisions of any general or special law to the contrary, local boards of health and the department of environmental protection shall not withhold or revoke any license to operate a mobile home park due to Title V violations for a period of one year from the effective date of this act.

SECTION 426. Notwithstanding any general or special law to the contrary, the Massachusetts office of business development is hereby authorized and directed to administer in fiscal year 1999 the Massachusetts manufacturing partnership, established initially pursuant to item 9000-2102 in section 2 of chapter 110 of the acts of 1993, by subsequent appropriation acts, and in this act as item 7007-0350. To ensure the cost-effective delivery of partnership services to manufacturers and to offset declining federal support for said partnership, said office, after consultation with the corporation for business,

Chap. 194

work and learning, shall develop and implement in said fiscal year a plan to effectively and cost efficiently administer said partnership. Said plan shall establish a timeline for co-locating partnership service offices at the one-stop regional assistance centers by July 1, 1999 and the integration of the regional partnership boards within said office of business development. Said office shall seek the advice of said boards in creating said plan but shall retain the authority to implement said plan in a manner and on terms and conditions it deems most appropriate. Said plan shall be submitted to the house and senate committees on ways and means not later than December 1, 1998. For the purpose of maximizing a state matching grant for said partnership, said office is hereby authorized and directed to seek approval from the national institute of standards and technology to leverage and utilize up to \$1,100,000 of funds appropriated in item 7007-0300 for the creation and support of manufacturing networks.

SECTION 427. (1) As used in this section, the following terms shall have the following meanings:

"Building", the Leverett Saltonstall state office building at 100 Cambridge street in the city of Boston.

"Secretary", the secretary of administration and finance.

(2) Within 30 days after the effective date of this act, the secretary shall cause to be published in the central register under section 20A of chapter 9 of the General Laws in large metropolitan newspapers and professional real estate trade journals a notice requesting proposals from any public or private entity, agency, individual partnership or joint-venture regarding the use, re-use, rehabilitation, renovation, reconstruction, purchasing, ownership, leasing, construction or development of the building. The secretary may include in the notice any information, restrictions, requirements, conditions or additional provisions that may be necessary to comply with any applicable law, to assist any public or private entity, agency, individual partnership or joint-venture in responding to said notice and are consistent with the purposes of this section.

The notice shall solicit the following proposals:

(a) Proposals to purchase the building in its current "as is" condition for its full and fair market value at its highest and best use. Said proposal shall include a plan for use or re-use of said building, including any combination of construction of new office space, rehabilitation of existing office space, or development for uses other than only office space. Proposals shall relocate the government agencies and departments having occupied the building with office space in another location, either in the city of Boston or outside said city, including the use of multiple sites for office space; provided that such sites shall be convenient for the public and to public transportation and convenient for the business of the public departments or agencies so located.

(b) Proposals to purchase the building in its current "as is" condition for its full and fair market value as its highest and best use; provided that said proposal shall include the commonwealth's retaining the right to occupy no less than 15 per cent of the building after

such reconstruction, repair and rehabilitation of the building for office space for its agencies and departments. Such proposal shall also include a plan for relocating the agencies and departments of the commonwealth as provided in paragraph (a).

(c) Proposals to finance, design, redesign, repair, rehabilitate or reconstruct the building for continued use as office space for the agencies and departments of the commonwealth; provided that said proposal shall specify a guaranteed price and time for completion of the project and may also recommend alternatives to existing statutory procurement requirements. Such a proposal may provide that: (1) the commonwealth will enter into a long-term lease with the developer; or (2) the commonwealth shall retain title to the building but compensate the developer for its work.

(d) Proposals of any other type or kind for the use, reuse, rehabilitation, renovation, reconstruction, purchasing, ownership, leasing, construction or development of the building that the secretary, in his discretion, may include in the notice; provided that any such proposal shall be consistent with the purposes of this section.

(3) Notwithstanding any general or special law to the contrary, the secretary shall require each proposal requested pursuant to subsection (2) to include proof satisfactory to the secretary of the following: (a) the proponent's financial ability to perform as so required by the proposal; (b) the proponent's competence and ability to perform as so required by the proposal; (c) the proponent's ability to secure a surety bond to perform as so required by the proposal; and (d) any other qualifications, credentials, experience, accreditation or licenses that the secretary may deem necessary.

(4) All responses to the proposals provided for in subsection (2) shall be submitted to the secretary on or before ninety days after the publishing of said notice.

(5) Not later than 120 days after the submission of the proposals pursuant to subsection (4), the secretary shall file a written report with the house and senate committees on ways and means and the joint committee on state administration. Said report shall include a cost-benefit analysis comparing the proposals received pursuant to subsection (2) and shall recommend which proposal is most cost effective; provided that the secretary shall consider, among others, the following factors as part of said cost-benefit analysis:

(a) Cost, feasibility, effectiveness, and timeliness of renovating, rehabilitating or reconstructing the building by the commonwealth for the sole use of its agencies and departments;

(b) Purchase price of the building by public or private entity, individual, agency, partnership or joint-venture;

(c) Cost, feasibility, convenience, availability and effectiveness of relocating agencies and departments now located in the building to other sites either within or outside the city of Boston;

(d) Cost, feasibility, convenience and timeliness of the commonwealth leasing office space within the building from a private or public entity, agency, individual, partnership or joint-venture;

Chap. 194

(e) Condition and use of the building, including the nature of the current "as is" condition of the building, future maintenance costs, rehabilitation or reconstruction costs and danger, if any, to the health and safety of the users and occupants of the building;

(f) Public convenience to the agencies and departments located in the building;

(g) Availability of financing to the commonwealth or to any private or public entity, agency, individual, partnership or joint venture;

(h) Role of the commonwealth, if any, with any private or public entity, agency, individual, partnership or joint venture to renovate, rehabilitate or reconstruct the building;

(i) Potential for economic development within, near or around the building resulting from the use, reuse, renovation, rehabilitation, construction or reconstruction of the building;

(j) Public interest in terms of cost, financial return and convenience to conduct the business of the agencies and departments so located; and

(k) A comparison of the anticipated cost of and the amount of time required to complete the Saltonstall Building project through a conventional public construction process, as mandated by statute, versus any alternative method of construction proposed by said secretary, in consultation with the commissioner of the division of capital asset management and maintenance, including, but not limited to, those methods submitted as a result of a request for proposals authorized by subsection (2).

The report shall include a copy of all proposals submitted to the secretary, as authorized by subsection (2), together with the legislation necessary to carry out the proposal selected and endorsed by the secretary.

SECTION 428. Notwithstanding the provisions of any general or special law to the contrary, the University of Massachusetts Medical School, the state police crime laboratory, and the office of the chief medical examiner, shall conduct a study on the drug analyses performed by said entities. Said report shall include, but not be limited to, a detailed summary of the number and nature of drug analyses performed in fiscal years 1996 through 1998, the number of cases referred by law enforcement authorities, the average number of days needed to complete a drug analysis, the number of cases currently awaiting analysis, cost estimates of the various analyses performed and recommendations to improve the quality and efficiency of services. Said agencies shall file a joint report with the secretary of administration and finance and the house and senate committees on ways and means no later than March 31, 1999.

SECTION 429. Notwithstanding the provisions of any general or special law to the contrary, the sheriff of Plymouth county shall submit to the house and senate committees on ways and means, not later than January 1, 1999, a report on the feasibility of using the Plymouth County Correctional Facility as a regional lock-up facility within Plymouth county. Said report shall propose the terms by which said facility may be used by the individual chiefs of police in Plymouth county for the detention of persons arrested. Said report shall detail the proposed schedule of fees to be assessed against individual chiefs of police for the use of said facility as a regional lock-up; provided, however, that said fees shall be calculated

to cover fully the operational costs which are directly related to the operation and maintenance of regional lock-up detention beds in the Plymouth county correctional facility. Said report shall also detail the projected average daily demand for regional lock-up detention beds in relation to the projected capacity in said facility.

SECTION 430. Notwithstanding the provisions of any general or special law to the contrary, there is hereby established a special commission to study the provision of telecommunications services by municipal light plants. Said study shall include, but not be limited to: the extent to which such municipal light plants shall be subject to the jurisdiction and regulation of the department of telecommunications and energy; examination of the effect on competition in the utility industry, the consistency of such services with the intent of relevant federal legislation, including the 1992 Cable Act and the 1996 Federal Telecommunications Act; the effect of such activity on taxation by municipalities; establishment of related services for the deaf and disabled; liabilities of a municipality which has a community antenna television or telecommunications system under the Massachusetts Tort Claims Act; borrowing money outside the debt limit for establishing, purchasing, extending, remodeling, reconstructing or making extraordinary repairs to such telecommunications systems; and the ultimate fiscal benefit of such bundles services to utility customers. Said commission shall consist of the following 11 members: three members of the house of representatives, two of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the minority leader of the house; three members of the senate, two of whom shall be appointed by the president of the senate and one of whom shall be appointed by the minority leader of the senate; the chairman of the department of telecommunications and energy, or his designee; the director of the office of consumer affairs and business regulation; and three representatives of the municipal light plant industry, who shall be appointed by said director of the office of consumer affairs and business regulation. Said commission shall be chaired by said director of the office of consumer affairs and business regulation. Said commission shall report its findings and recommendations with the joint committee on government regulations not later than January 31, 1999.

SECTION 431. Section 11 of this act shall take effect on January 1, 1999.

SECTION 432. Section 130 and 239 shall take effect on July 1, 1997.

SECTION 433. Sections 72, 73, 86, 103, 125, 201, 204 and 209 shall take effect on July 1, 1999.

SECTION 434. Sections 202, 205 and 210 shall take effect on July 1, 2000.

SECTION 435. Section 214 of this act shall apply to all claims under chapter 258 of the General Laws upon which a final judgement has not entered, or as to which an appeal is pending or the appeal period has not expired, and to all claims upon which suit is filed on or after the effective date of this act.

SECTION 436. Sections 263, 314, 315, 316 and 346 shall take effect on June 30, 1998.

Chap. 194

SECTION 437. Section 264 shall take effect as of November 28, 1996.

SECTION 438. Section 267 shall take effect as of January 1, 1997.

SECTION 439. Section 262 shall take effect as of January 14, 1997.

SECTION 440. The department of housing and community development shall promulgate regulations implementing section 179. not later than 30 days after the effective date of this act, and maximum rentals, income deductions, income exclusions and rent levels mandated by said section shall take effect on January 1, 1999.

SECTION 441. Section 406 shall expire two years from the date of its enactment.

SECTION 442. Sections 188 and 265 shall take effect as of June 30, 1999.

SECTION 443. Except as otherwise provided, the provisions of this act shall take effect on July 1, 1998.

This bill was returned on July 30, 1998, by the Acting Governor-Lieutenant Governor to the House of Representatives, the branch in which said bill was originated, with his objections in writing to the following items therein:

Items Disapproved:

SECTION 2

1599-0001	1599-2123	2010-0111	2100-2045
2220-3000	2511-0101	4120-6002	7003-0701

SECTIONS: 11, 55, 56, 82, 108, 124, 127, 128, 129, 142, 143, 181, 190, 191, 197, 239, 244, 258, 259, 261, 274A, 285, 292, 297, 299, 342, 343, 356, 361, 362, 363, 365, 366, 369, 370, 371, 372, 374, 375, 376, 377, 378, 381, 387, 389, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 403, 404, 405, 410, 411, 412, 413, 414, 415, 416, 421, 423, 427, 441

SECTION 2 *Items reduced in amount*

Item	Reduce by	Reduce to
0337-0003	2,598,404	13,274,446
0521-0001	500,000	3,458,538
1100-1101	100,000	100,000
1599-2503	4,000,000	14,000,000
1599-9150	4,000,000	12,000,000
4000-0122	1,000,000	1,000,000
4401-1001	6,000,000	9,000,000
7002-0500	341,500	17,768,412
7004-0003	49,000	76,000
7004-1966	1,300,000	4,500,000
7004-9004	550,000	200,000
7004-9030	259,303	3,740,697

Chap. 194

Item	Reduce by	Reduce to
7035-0003	75,000	150,000
8000-0160	278,589	386,409
8910-0102	897,108	42,847,039
8910-0108	128,338	5,632,688

SECTION 2 *Items reduced in amount and by striking the wording*

Item	Reduce by	Reduce to	Wording Stricken
0330-0301	512,445	2,205,893	"provided, that not less than \$100,000 shall be expended for the implementation of a changing lives through literature program; provided further, that not less than \$211,000 shall be expended for the operation of the Suffolk County courts' community service program, so-called, to be supervised by the chief justice for administration and management"
0330-0302	2,806,000	3,194,000	“; provided further, that \$156,000 shall be expended for the purpose of providing a community services for women program in the district court of Southern Essex”
0330-0400	185,000	18,546,540	“; provided further, that not less than \$100,000 shall be provided for a contract with Massachusetts General Hospital for a research program on abused children; and provided further, that not less than \$85,000 shall be expended for a partnership between the administrative office of the trial court and the University of Massachusetts for the development and implementation of a plan to increase the number of qualified, certified foreign language interpreters available for court interpretation services”
0330-0410	65,000	50,000	“; provided further, that not less than \$35,000 shall be expended for Framingham mediation services; and provided further, that not less than \$30,000 shall be expended for Fitchburg mediation services”
0330-2000	33,000	1,896,432	“; and provided further, that not less than \$33,000 shall be expended for a pilot project at

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			the Norfolk county law library for the staffing of night time service"
0330-3700	90,000	289,986	" ; provided further, that not less than \$90,000 shall be expended for a court interpreter pilot program in the superior court located in the city of Fall River and said court shall provide one court interpreter, one clerical support position and office space, if available, for said program"
0331-3400	78,000	2,235,341	" ; provided further, that not less than \$65,000 shall be expended on said clerk's duties as clerk of the appellate division for the superior court for the commonwealth" and " ; provided further, that \$13,000 shall be expended for five summer interns in fiscal year 1999"
0339-2100	100,000	1,451,102	" ; provided, that not less than \$100,000 shall be expended on an contract with the Massachusetts Institute of Social and Economic Research for that entity to conduct a study in multiple phases to assess a pilot project to test the efficacy of the implementation of a new juror summoning system to be established by the office of the jury commissioner, which shall use as its source an amalgamated list as prescribed in section 342; provided further, that results of said study and the evaluation criteria used shall be submitted to the house and senate committees on ways and means no later than October 1, 1999; and provided further that said report shall include a transition plan for the expansion of said pilot project statewide beginning January 1, 2000"
0411-1000	100,000	4,975,528	" ; provided further, that \$25,000 shall be expended for office supplies for the offices of the governor's council; and provided further, that not less than \$75,000 shall be expended for a pro-

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			gram for the promotion of preventive medicine through physical fitness and sports activities in the commonwealth to be administered by the governor's committee on physical fitness and sports"
0526-0100	640,900	1,325,000	<p>"; provided further, that funds may be expended from this item for historic lighthouses"</p> <p>and</p> <p>"; provided further, that not less than \$150,000 shall be made available for the matching grant for repairs to the exhibit hall for the Cape Museum of Fine Arts; provided further that \$150,000 be provided for the restoration and preservation of St. Alphonsus Theater in Boston in accordance with Secretary of Interior's Standards for the Treatment of Historic Properties, as set forth in 36 C.F.R. Part 68; provided further, that \$100,000 shall be provided for the restoration and preservation, including exterior stabilization, of the Brooks Estate in Medford"</p> <p>and</p> <p>"; provided further, that \$25,000 shall be provided for the Worcester woman's history project to preserve and exhibit historic artifacts; and provided further, that not less than \$15,900 shall be expended for the renovation for the Adah Hall House in the town of Pembroke"</p>
0640-0300	50,000	13,95,000	"; provided further, that \$50,000 shall be expended for the Riverside Theater Works, so-called"
1108-5200	38,970,094	506,861,756	"; provided further, that the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premium rates"
1599-6897	6,500,000	21,500,000	"; provided further, that notwithstanding any provision of this item to the contrary, providers of family planning services reimbursed according

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken to such class rate system, shall receive allocations from this item"
2000-0100	55,000	3,236,729	“; provided further, that not less than \$55,000 shall be expended for printing of the Massachusetts environmental policy act monitor”
2100-2030	35,000	22,103,901	“; provided further, that \$35,000 shall be expended for a supervisor at Lake Whitehall in Hopkinton”
2260-8870	25,000	15,013,724	“; provided, that not less than \$25,000 shall be expended for the sea change project, so-called, in the evaluation and development of innovative technologies for hazardous waste remediation, brownfields development and ecosystem recovery associated with the superfund cleanup of the New Bedford harbor”
2330-0121	80,000	387,000	“; provided, that not less than \$80,000 shall be expended for the research on artificial reefs”
2440-0010	585,482	27,088,724	“; provided further, that not less than \$37,482 shall be expended for additional personnel in the Fells Reservation; provided further, that not less than \$51,000 shall be expended to assess flood damage to Pine Banks Park and Forestdale cemetery” and “; provided further, that the commission shall expend \$150,000 above the amount expended for maintenance of said park in fiscal year 1998 and shall enter into contracts for personnel and other resources necessary to implement said plan, including the costs of two horticulturists and a supervisor; provided further, that the no full-time equivalent positions shall be added for the purposes of developing or implementing said plan” and

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			<p>“; provided further, that not less than \$50,000 shall be expended for improvements to Bellevue reservation in the West Roxbury section of the city of Boston including, but not limited to, ranger patrols of said reservation, lighting and irrigation”</p> <p>and</p> <p>“; provided further, that \$10,000 shall be expended for payments to the Charles River Watershed Association for testing of fecal coliform levels in the Charles river and the posting of warning flags to indicate unsafe levels of contamination; provided further, that \$25,000 shall be expended for the beautification and maintenance of the two hillsides maintained by the commission, adjacent to the McGrath - O’Brien highway and Linwood street in the city of Somerville; provided further, that not less than \$150,000 shall be expended for the costs associated with the management of aquatic non-native plants in the Charles river lakes district, including treatment and monitoring”</p> <p>and</p> <p>“; provided further, that not less than \$75,000 shall be expended for improvements to the Revere Beach parkway in the city of Everett; and provided further, that not less than \$37,000 shall be expended for the general upkeep and maintenance of the John Fitzgerald Kennedy Library park in the city of Cambridge”</p>
2511-0100	95,000	4,880,165	<p>“; provided further, that not less than \$40,000 shall be expended for the cost of leased agricultural equipment at the Smith vocational high school in Northampton; provided further, that not less than \$55,000 shall be expended for the purposes of the mastitis laboratory at the University of Massachusetts at Amherst”</p>

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
2511-4010	165,597	140,207	“; provided, that not less than \$75,000 shall be expended for shellfish propagation on the islands of Martha’s Vineyard and Nantucket to be administered jointly by the state aquaculture coordinator and Dukes and Nantucket counties”
4110-1000	10,000	3,602,365	“; and provided further, that not less than \$10,000 shall be expended for the audible local ledger of Falmouth”
4120-4000	15,000	5,208,798	“; provided that not less than \$15,000 shall be expended for Living Independently for Equality Inc. of Brockton”
4130-3300	20,000	120,530,602	“; provided further, that not less than \$20,000 shall be expended for the purposes of a program of after school safety child care for the children of homeless families in the town of Framingham”
4403-2119	550,000	5,281,906	“; provided, that \$550,000 shall be expended for teenage parent housing outreach services”
4403-2120	104,148	38,090,880	“; provided further, that \$104,148 shall be expended for a furniture donation pickup van” and “; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representative and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes”

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
4513-1000	200,000	12,321,896	“; provided further, that \$200,000 shall be expended for the “women enjoying longer lives” program, so-called”
4800-0018	499,193	36,760,398	“; provided further, that not less than \$30,000 shall be expended for a contract with big brothers and sisters of Cape Cod and the islands; provided further, that not less than \$69,193 shall be expended for the school age parenting project at Framingham high school” and “; provided further, that not less than \$35,000 shall be expended by the Framingham office of the department of social services for the metro-west campership program operated by the Ashland youth advisory board in partnership with said department; provided further, that \$50,000 shall be expended for the purpose of providing case management services for the Amity Transitional Housing Program; so-called, of Lynn; provided further, that the department shall expend a sum of not less than \$40,000 in region 1 for a community-based family unification counseling program to prevent juvenile delinquency” and “; provided further, that not less than \$150,000 shall be expended for a contract with Julie’s family learning program in South Boston” and “; provided further, that not less than \$15,000 shall be expended for a contract with Child and Family Service of Cape Cod for the Court Diversion Program; provided further, the department shall expend \$110,000 to establish a pilot feasibility study by providing that not less than \$75,000 shall be expended for Latinas y Ninos

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			and Casa Esperanza to explore family stabilization and reunification through expanded economic and training opportunities and that \$35,000 shall be expended for contracted services to be provided to the same for programmatic and capital development”
7004-0002	10,000	490,000	“; provided, that not less than \$10,000 of the amount appropriated herein shall be expended as a grant to the planned learned achievement for youth program”
7004-0099	24,865	5,864,276	“; provided further, that \$24,865 shall be transferred from this item to the University of Massachusetts for the purposes of the Native American Resource Center, so-called”
7007-0400	500,000	1,850,000	“; provided, that \$150,000 shall be expended for purposes of a ship building technology institute through the Massachusetts maritime academy; provided further, that not less than \$100,000 shall be expended for the center for women and enterprise” and “; provided further, that not less than \$100,000 shall be expended for the initiative known as the I-495/campaign for shared solutions, so-called; provided further, that no town or municipality’s zoning or planing by laws shall be superseded by any action of the I-495 campaign of shared solutions” and “; provided further, that not less than \$100,000 shall be expended for the Massachusetts council for quality; provided further, that said funds for said council shall be subject to a 100 per cent matching requirement from local or other public or private sources”

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken and
			“; provided further, that not less than \$50,000 shall be expended for the purpose of a neighborhood network neighborhood center in the city of Worcester to provide economic stability to the downtown areas”
7007-0950	626,704	1,450,000	“; provided further, that not less than \$30,000 shall be expended for the Berkshire visitor bureau to be used for the promotion of Pittsfield’s summerfest, so-called; provided further, that not less than \$25,000 shall be expended for the heritage Cape Cod program, so-called; provided further, that notwithstanding the provisions of any general or special law to the contrary, not less than \$25,000 of the amount appropriated herein shall be expended for the purposes of section 159 of chapter 43 of the acts of 1997; provided further, that not less than \$25,000 shall be expended for the sports museum of New England at Lowell, so-called, for the support of and expansion of educational programs for children; provided further, that not less than \$56,704 shall be expended for the days of awareness of Wampanoag history at Plymouth plantation; provided further, that not less than \$60,000 shall be expended for the purposes of jointly maintaining the Plymouth rest area, so-called, by the Cape Cod chamber of commerce and the Plymouth County Development Council; provided further, that not less than \$20,000 shall be expended for the purpose of maintaining the Yarmouth rest area, so-called, by the Yarmouth chamber of commerce; provided further, that not less than \$30,000 shall be expended for the purposes of maintaining the Bourne rest area, so-called by the Cape Cod chamber of commerce; provided further, that not less than \$50,000 shall be expended for the Freedom’s Way Association,

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			so-called; provided further, that not less than \$50,000 shall be expended for the Merrimack valley convention and visitors bureau to be used for the marketing and promotion of the Tsongas arena and LeLacheur park; provided further, that not less than \$50,000 shall be provided in matching grants to the town of Hull for the purpose of one-time costs involved with increasing awareness of and improving tourist attractions, recreation facilities and coastal resources in the town concurrent with supporting the effort to convince the national lighthouse museum to establish its permanent site in said town, so long as none of the funds utilized by said town to qualify for matching funds originates from assistance provided through a local tourist council; provided further, that not less than \$30,000 shall be expended for the continuing operation of the Mansfield tourist information center; provided further, that not less than \$25,000 shall be expended for the continuing operation of the Swansea tourist information center; provided further that not less than \$50,000 shall be expended for the expenses of the Massachusetts international festival of the arts; provided further, not less that than \$100,000 shall be expended for the expenses of Destination Plymouth, so-called”
7035-0002	7,000,000	26,626,751	“; provided further, that not less than \$100,000 shall be expended for programs including, but not limited to, adult basic education and English as a second language provided by NDEC educational program, so-called; provided further, that \$30,000 shall be expended for the Attleboro Literacy Center; provided further, that \$30,000 shall be expended for the Valley Opportunity Council in the Pioneer Valley; provided further, that not less than \$25,000 shall be expended for the purpose of developing adult blind literacy

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			training; provided further, that not less than \$75,000 shall be made available to Massasoit Community College to create a pre-employment skills training program; provided further that \$250,000 shall be expended for the Methuen Adult Learning Center"
7061-9600	45,600	1,579,400	" ; provided further, that not less than \$45,600 shall be expended for the technology prep pilot program, so-called, at Massasoit Community College"
7100-0200	945,000	423,199,220	" ; provided further, that not less than \$275,000 shall be expended for the analysis of a narcotic drug synthetic substitute, poison, drug, medicine or chemical at the University of Massachusetts Medical School in order to support the law enforcement efforts of the district attorney and the police departments of the cities and towns of the middle district" and " ; provided further, that not less than \$25,000 shall be expended on the Massachusetts center for renaissance studies in Amherst" and " ; provided further, that not less than \$75,000 shall be expended on an artificial reef program including, but not limited to, the creation of a model program to enhance and rehabilitate marine habitats at the University of Massachusetts at Dartmouth; provided further, the University of Massachusetts at Dartmouth shall enter into a co-operative agreement with the division of fisheries and wildlife within the department of fisheries, wildlife and environmental law enforcement for said division to administer said program" and

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			“; provided further, that not less than \$380,000 shall be obligated for the start-up costs associated with the Center of Marine Environmental Science Electronic Technology and Fisheries at the University of Massachusetts at Dartmouth, including a study and model program for artificial reef construction and fisheries development”
			and
			“; provided further, that \$110,000 shall be expended for the development of a court interpreter’s study program at the university in conjunction with the university’s partnership with the trial courts”
			and
			“; provided further, that not less than \$80,000 shall be expended on the model program for artificial reef construction and development with such monies to be administered by the division of marine fisheries within the department of fisheries, wildlife and environmental law enforcement”
7503-0100	60,000	12,333,353	“; provided, that \$60,000 shall be expended for the purpose of tracking, monitoring, evaluating and reporting on individuals who are enrolled at Bristol Community College while receiving public assistance; and provided further, that such tracking, monitoring, evaluating and reporting shall include administrative and computer assistance in order to enable communication with the department of transitional assistance regarding such individuals”
7504-0100	137,650	9,200,134	“; provided, that \$137,650 shall be expended for library resources for the “Two plus Two” initiative, so-called”
8324-1500	106,271	2,493,608	“; provided further, that not less than \$48,992 shall be available for the community-based fire

Chap. 194

Item	Reduce by	Reduce to	Wording Stricken
			prevention program in the Fall River area; provided further, that \$24,779 shall be expended for equipment for the Newburyport fire department technical rescue team” and “; provided further, that not less than \$32,500 shall be provided for the community based fire prevention program in the city of Malden; and provided further, that the secretary of administration and finance shall report monthly to the house and senate committees on ways and means on the justification regarding any restriction on the hiring of fire training personnel and shall explain the derived savings to the Local Aid Fund by not hiring such personnel in this item”
9110-1660	125,000	1,323,474	“; provided, that not less than \$50,000 shall be expended for congregate housing services at the Tuttle House facility in the Dorchester section of the city of Boston; and provided further, that \$75,000 shall be expended for a resident coordination program administered by the Committee to End Elder Homelessness, Inc.”
9110-9002	15,000	5,785,000	“; and provided further, that not less than \$15,000 shall be obligated for the Massachusetts senior games”

SECTION 2 *Items reduced in amount and by striking the wording and inserting in place thereof the following:*

Item	Reduce by	Reduce to	Wording Stricken
2200-0100	325,000	25,266,994	“; provided further that not less than \$50,000 shall be paid to the town of Clinton for the reconstruction and rehabilitation of the Mulberry Drive water tanks in the town of Clinton” and

Chap. 194

Item	Reduce by	Reduce to	
			<i>Wording Stricken</i> “; provided further, that not less than \$250,000 shall be allocated to the Massachusetts Military Reservation Environmental Technology Center, so-called, pursuant to section 252 of chapter 38 of the acts of 1995; provided further, that of the amount appropriated herein the department shall expend \$425,000 to develop a comprehensive wastewater management plan, in accordance with all requirements of the department, for communities connected to the Massachusetts Water Resources Authority Braintree/Weymouth interceptor, so-called; provided further, that \$50,000 shall be transferred from this item to the University of Massachusetts at Amherst soil and science department for the purpose of collecting data from, and evaluating innovative greywater recycling systems”
			<i>Wording Inserted</i> “; provided further, that not less than \$200,000 shall be allocated to the Massachusetts Military Reservation Environmental Technology Center, so-called, pursuant to section 252 of chapter 38 of the acts of 1995; provided further, that of the amount appropriated herein the department shall expend \$250,000 to develop a comprehensive wastewater management plan, in accordance with all requirements of the department, for communities connected to the Massachusetts Water Resources Authority Braintree/Weymouth interceptor, so-called”
2511-3002	100,000	299,500	<i>Wording Stricken</i> “; provided, that not less than \$250,000 shall be expended for the purpose of a research grant at the University of Massachusetts”
			<i>Wording Inserted</i> “; provided, that not less than \$150,000 shall be expended for the purpose of a research grant at the University of Massachusetts”

Chap. 194

Item	Reduce by	Reduce to	<i>Wording Stricken</i>
4400-1000	150,000	73,550,709	“; provided, that \$500,000 shall be expended on a food stamp outreach program”

Wording Inserted
“; provided, that \$350,000 shall be expended on a food stamp outreach program”

4401-1000	2,494,343	24,610,384	<i>Wording Stricken</i> “; provided further, that \$100,000 shall be expended for the purposes of an employment services program for refugee training and employment for the recipients of said program in Boston; provided further, that funds from this item shall be expended for the 100 careers program at Roxbury community college to recruit, train, counsel, and place in employment 100 new students with one or more dependents who are receiving transitional assistance benefits and to provide workforce development in cooperation with employers; provided further, that not less than \$161,343 shall be expended for the continued administration and operation of the New Beginnings training program at Northern Essex community college to assist low income residents of the Lawrence community to further their education and find employment”
-----------	-----------	------------	--

and
“; provided further, that not less than \$45,000 shall be expended for English as a Second Language Skills Training program for DTA-TAFDC recipients in the Greater New Bedford Service Delivery Area; provided further, that the department shall establish performance measures for the programs funded from the four previous provisos; provided further, that the department shall report quarterly to the house and senate committees on ways and means on the performance of said four programs; provided further, that \$5,250,000 shall be expended for young parent programs”

Chap. 194

Item	Reduce by	Reduce to	<i>Wording Inserted</i> “; provided further, that \$3,147,000 shall be expended for young parent programs”
4590-0300	312,081	55,709,694	<i>Wording Stricken</i> “; provided further, that not less than \$12,081 of said \$4,314,662 shall be expended for the “Here’s Looking at You 2000” and “Pals for Wellness” drug education programs, so-called, in the town of Cohasset” and “; provided further, that not less than \$400,000 shall be allocated from this item to the Berkshire County Area Health Education Center, Inc. for programs including but not limited to alcohol, drug and tobacco prevention; and provided further, that not less than \$100,000 shall be expended for a program to raise public awareness and provide health care provider education on colorectal cancer, including dissemination of materials on preventing and screening said disease and cancer registry reporting” <i>Wording Inserted</i> “; and provided further, that not less than \$200,000 shall be allocated from this item to the Berkshire County Area Health Education Center, Inc. for programs including but not limited to alcohol, drug and tobacco prevention”
7114-0101	337,000	745,885	<i>Wording Stricken</i> “; provided, that not less than \$500,000 shall be expended for design costs and basic infrastructure improvements of the GTE/Sylvania site” <i>Wording Inserted</i> “; provided, that not less than \$163,000 shall be expended for design costs and basic infrastructure improvements of the GTE/Sylvania site”

Chap. 194

SECTION 2 *Items disapproved by striking the wording:*

Item	Wording Stricken
0330-2205	“; provided, that all maintenance personnel employed by Worcester, Hampden, and Hampshire counties in fiscal year 1998 shall be reclassified as state employees for fiscal year 1999 and shall be compensated from this item”
0330-3200	“; provided further, that any security personnel employed by Hampden and Hampshire counties in fiscal year 1998 shall be reclassified as state employees for fiscal year 1999 and shall be compensated from this item”
0336-0002	“; provided, that any division of the housing court department, as defined in section 4 of chapter 185C of the General Laws, shall hold its sittings in the facilities of the district court of central Berkshire county in the city of Pittsfield not less than once per month; provided further, that such sitting shall be held by an associate justice of the trial court appointed to a division of the housing court department”
1599-2122	“; provided, that notwithstanding any general or special law to the contrary, no funds shall be expended or transferred from this item until the secretary of administration and finance has certified that the office of the jury commissioner has submitted the report required by section 342 on or before February 28, 1999”
2420-1400	“; provided further, that the metropolitan district commission shall provide the Massachusetts Water Resources Authority advisory board with an annual presentation of the expenses of watershed management operations funded by this item for which said authority is charged”
4000-0105	“; provided further, that no revenues shall be credited to this item until the secretary of administration and finance certifies that the secretariat of health and human services has met or exceeded the revenue estimates delineated in said sections 1A and 1B and the comptroller has certified that expenditure of said revenues shall not have a negative impact on the revenue optimization program, so-called”

Chap. 194

Item	Wording Stricken
4403-2000	“; provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary 30 days before implementing any eligibility or benefit changes, or both, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth the basis for, and text of, such proposed changes”
4403-2002	“; and provided further, that notwithstanding the provisions of any general or special law or of this item to the contrary, 30 days before implementing any eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth the basis for, and text of, such proposed changes”
4403-2110	“; provided further, that notwithstanding the provisions of any general or special law or this item to the contrary, 30 days before promulgating any such eligibility or benefit changes, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes”
4408-1000	“; provided further, that notwithstanding the provisions of any general or special law, or of this item, to the contrary, before implementing any eligibility or benefit changes or both to the program, the commissioner shall file with the house and senate committees on ways and means and with the clerks of the house of representatives and the senate a determination by the secretary of health and human services that available appropriations for said program will be insufficient to meet projected expenses and a report setting forth such proposed changes”

Chap. 194

Item	Wording Stricken
4510-0100	“; and provided further, that the comptroller shall transfer from this item to items 1599-7010, 4590-0908, 4590-0909, 4590-0910, 4590-1911, and 4590-0912 such amounts as may be required to ensure that said items do not require the appropriation of supplemental funding during fiscal year 1999, subject to a transfer plan which the commissioner of public health shall file in advance with the house and senate committees on ways and means”
4510-0150	“; provided, that the monthly number of clients enrolled in said program shall not exceed the average monthly enrollment in said program for fiscal year 1998”
4512-0200	“; provided further, that no additional methadone clinic or facility dispensing methadone shall be located in any city or town in which there is an existing such clinic or facility, without first receiving the approval of the city council and mayor in a city, the city council in a Plan E city or the board of selectmen or town council in a town”
4513-1020	“; provided further, that the department shall fund not less than 39 full time equivalent employees for the early intervention program”
4590-0908	“; provided, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means”
4590-0909	“; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the

Chap. 194

Item	Wording Stricken
	department notifies the house and senate committees on ways and means”
4590-0910	“; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means”
4590-0911	“; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means”
4590-0912	“; provided further, that in the event expenditures and encumbrances for the purposes of this item exceed the amount appropriated herein, the comptroller is hereby authorized and directed to transfer the amount of any such deficiency from item 4510-0100 to this item to ensure that services are maintained throughout fiscal year 1999; and provided further, that notwithstanding the provisions of any general or special law to the contrary, no such transfer shall occur until the commissioner of the department notifies the house and senate committees on ways and means”
6005-0015	“ or any new services in the amount not to exceed a total of \$3,613,905 for the 15 regional transit authorities; provided further, that said new services must first receive approval of the appropriate regional transit authority advisory board; provided further, that not less than 25 per cent of the net cost of service of

Chap. 194

Item	<p>Wording Stricken</p> <p>said new services shall be assessed to the cities and towns of the appropriate regional transit authority, as detailed previously in this item; provided further, that each regional transit authority which provides said new services must file a report to the house and senate committees on ways and means and the joint committee on transportation, detailing the total costs and revenues associated with said new service; provided further, that the cost of said new services shall not annualize to more than \$3,613,905"</p>
6010-0001	<p>“; provided further, that the department shall study and report on suggested improvements, if any, to state highway route 3A in the town of Kingston, including possible signalization at the intersections of state highway route 3A, state highway route 106 and Howland’s Lane in said town; and provided further, that the department is directed to conduct a review and analysis on the traffic conditions at the intersection of state highway route 28 and Wood street in the town of Middleborough and report on any improvements thereof which will enhance traffic safety”</p>
7061-9604	<p>“; provided, that not less than 24.87 FTEs shall be funded from this item”</p>
8100-0000	<p>“; provided further that, no management level employee compensated from this item shall receive any increase in compensation until said department complies fully with the provisions of item 8100-0301"</p>
8200-0200	<p>“; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth’s obligation for the purpose of this item to exceed the amount appropriated herein”</p>
8315-1002	<p>“; and provided further, that this item shall fund 62 and one-half full time equivalent state employees”</p>
8315-1003	<p>“; provided, that no funds shall be expended from this item until all inspector positions referenced in item 8315-1002 shall be filled or posted to be filled”</p>

Chap. 194

Item	Wording Stricken
8700-0001	“; provided further, that the adjutant general shall convene a task force consisting of one member of the house of representatives to be appointed by the speaker of the house, one member of the senate to be appointed by the senate president and one resident of the community surrounding camp Curtis Guild to study and make recommendations regarding the use of firearms at Camp Curtis Guild rifle range and the impact of such firearms on the health and safety of residents of the surrounding communities; and provided further, that said task force shall file a report detailing its recommendations to the house and senate committees on ways and means no later than January 1, 1999”
8900-0001	“; provided, that notwithstanding the provisions of any general or special law to the contrary, no collective bargaining agreement entered into by the commissioner of administration or his designee in fiscal year 1999 shall contain an increase in roll call pay for correction officers”
8900-0004	“; provided further, that the department of correction shall ensure that psychiatric services provided at state correctional facilities, including contracted provider services, shall include a minimum of nine full-time equivalent psychiatrists in addition to any such psychiatric positions assigned to the Bridgewater State Hospital; provided further, that said department shall ensure that inmates who are placed in segregation units, including all segregation units at MCI-Concord, and who are not designated as open mental health cases shall be visited by mental health staff not less than three times weekly; provided further, that said department shall ensure that mental health services provided at each secure state correctional facility, including contracted provider services, shall include a minimum of one doctoral level psychologist or similarly qualified employee; provided further, that said department shall report no later than January 15, 1999 on mental health services in said department; provided further, that said report shall delineate all mental health services positions assigned to each facility and said department’s progress in the implementation of each recommendation contained in the January 31, 1997 report submitted by the University of Massachusetts medical center on the department’s management of psychiatric services”

Chap. 194

Pursuant to Article 56 of the Amendments to the Constitution, Section 139, the Lieutenant Governor-Acting Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments.

The remainder of the bill was approved by the Lieutenant Governor-Acting Governor July 30, 1998 at three o'clock and three minutes, P.M.

*The objections of the Lieutenant Governor-Acting Governor notwithstanding and in the manner prescribed by the Constitution, on July 31, 1998 in the House of Representatives and on July 31, 1998 the Senate passed the following Sections: **SECTION 2**, Items: 0330-0302, 0337-0003, 0526-0100, 1108-5200, 2440-0010, 4401-1001, 4403-2120, 7003-0701, 7007-0400, 7114-0101, and 8910-0102; **SECTIONS 124, 127 and 297.***

*The objections of the Lieutenant Governor-Acting Governor notwithstanding and in the manner prescribed by the Constitution, on July 31, 1998 in the House of Representatives and on August 1, 1998 the Senate passed the following Sections: **SECTION 2**, Items 0330-0301, 0640-0300 and 8324-1500; **SECTION 415***



